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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.12516 OF 2016

Dnyaneshwar s/o Onkar Patil,
Age: 52 years, Occ: Agri.,
R/o. Neem, Tq. Amalner,
Dist. Jalgaon.

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Department of
Rural Development, Mantralaya,
Mumbai.
2. The Additional Commissioner,
Nashik Division, Nashik.
3. The Additional Commissioner,
Jalgaon, Tq. & Dist. Jalgaon.
4. Bhaskar s/o Hiranman Chaudhary,
Age: 51 years, Occ: Agri.,
R/o. Vivekananda Nagar,
Pimpale Road, Gut No.1523/1,
Plot No.12/B, Amalner,
Tq. Amalner, Dist. Jalgaon.
5. Village Development Officer,
Grampanchayat Neem,
Tq. Amalner, Dist. Jalgaon.

..RESPONDENTS

WITH

WRIT PETITION NO.12517 OF 2016

Dnyaneshwar s/o Onkar Patil,
Age: 52 years, Occ: Agri.,
R/o. Neem, Tq. Amalner,
Dist. Jalgaon.

..PETITIONER

(2)

VERSUS

1. The State of Maharashtra,
Through the Department of
Rural Development, Mantralaya,
Mumbai.
2. The Additional Commissioner,
Nashik Division, Nashik.
3. The Additional Collector,
Jalgaon, Tq. & Dist. Jalgaon.
4. Arun s/o Lotan Patil,
Age: 50 years, Occ: Agri.,
R/o. Neem, Tq. Amalner,
Dist. Jalgaon.
5. Hitesh s/o Arun Patil,
Age: 30 years, Occ: Agri.,
R/o. As above.
6. Village Development Officer,
Grampanchayat Neem,
Tq. Amalner, Dist. Jalgaon. ..RESPONDENTS

Mr K.F. Shingare, Advocate for petitioners;
Mr S.M. Ganachari, A.G.P. for respondent Nos.1 to
3;
Mr B.R. Warma, Advocate for respondent No.4;
Mr P.B. Patil, Advocate for respondent No.5

CORAM : NITIN W. SAMBRE, J.

DATE : 26th SEPTEMBER, 2017

ORAL ORDER :

Heard respective Counsel.

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2. The petitioner filed application for disqualification against the respondents being village panchayat members, which matter was reserved for orders on the file of Additional Collector on 14th January, 2016. The Additional Collector, without posting next date for judgment or order, rejected the application of the petitioner seeking disqualification vide order 8th February, 2016, against which, an appeal is provided under Section 16 of the Bombay Village Panchayat Act.

3. The petitioner claimed that he got knowledge of dismissal of the application for disqualification through villagers on 19th February, 2016 and on the very next day i.e. 20th February 2016 applied for grant of certified copy, which was provided to him on the very same day i.e. 20th February 2016. It is claimed that the appeal was filed on 5th March, 2016, which came to be rejected by the impugned order, as time barred, by the Additional Commissioner, Nashik Division,

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Nashik. As such, these petitions.

4. Having heard respective Counsel for some time, it is required to be noted that sub-section (2) of Section 16 of the Bombay Village Panchayat Act prescribes limitation of 15 days for filing the appeal from the date of order.

5. What is noticed from the *Roznama*, which is produced by the petitioner on record is, after the matter was reserved for orders on 14th January, 2016, fix date was not given for pronouncement of judgment.

6. Learned Commissioner, while rejecting the appeal, has not gone into the issue as to when the copy of rejection was made available to the petitioner, as such, in the facts of this case, limitation pursuant to Section 16(2) of the Bombay Village Panchayat Act is required to be calculated from the date of knowledge of such order to the petitioner.

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7. Upon perusal of the order impugned, it is noticed that the appellate authority, without looking into the aforesaid issue, has calculated period of limitation from the date of order i.e. 8th February, 2016 and has not taken into account the fact that whether such order was officially served on the petitioner-complainant by the first authority, who is Additional Collector.

8. In the aforesaid background, the petitions need to be allowed. The order passed by the appellate authority under Section 16 of the Bombay Village Panchayat Act is set aside. The proceedings stood restored to the file of Divisional Commissioner, Nashik, who is directed to dwell upon the issue of limitation first after considering the date of knowledge of the order to the present petitioner viz., the communication of the order of rejection of the complaint passed on 8th February, 2016. It is expected of the Commissioner to give appropriate opportunity to the respective parties before passing of the order on the said issue and

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if it is noticed by the Commissioner that the appeal is not time barred, may proceed to decide the appeal. The parties agree that they shall appear before the Divisional Commissioner, Nashik Division, Nashik on 13th November, 2017.

9. With above observations, writ petitions stand allowed.

(NITIN W. SAMBRE, J.)

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