

Mr. Vidya G. Langade i/b. Mr. Shamrao N. Patole for Petitioner.
Mr. Sumit Kate for Respondent No.1.
Ms Vaishali Nimbalkar, AGP for Respondents No.2, 4 and 5.
Ms D. S. Mondkar-Hule i/b. Mr. S. B. Shetye for Respondents No.3 and 6.

P.C. :

Heard Mr. Langade, learned Counsel for petitioner, Mr. Kate, learned Counsel for respondent No.1, Ms Nimbalkar, learned AGP for respondents No.2, 4 and 5 and Ms Mondkar-Hule, learned Counsel for respondents No.3 and 6 at length. Leave to amend so as to implead State Election Commission is granted. Amendment shall be carried out forthwith.

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the order dated 08.06.2016 passed by the Additional Commissioner, Pune Division, Pune. By that order, the Additional Commissioner refused to stay the order dated 30.04.2016 passed by respondent No.4, Collector, Solapur in Dispute Application No.2662 of 2015.

3. Rule. Learned Counsel for respective respondents waive service. At the request and by consent of the parties, Rule is made returnable forthwith and the Petition is taken up for final hearing.

4. By order dated 30.04.2016, Collector, Solapur allowed the application made by the respondent No.2 Tahsildar under Section 14(b) of the Maharashtra Village Panchayats Act (for short 'Act') and declared that petitioner has incurred disqualification and for a further period of 5 years, he is ineligible to contest the elections of Panchayat. In paragraph 7, the Collector observed that elections of Village Panchayat Kumbhari, Taluka Dakshin Solapur was held on 01.11.2015. The result of the election was declared on 04.11.2015. The account of election expenses is required to be submitted by the contesting candidates within one month from the date of declaration of their election result. Petitioner was supposed to submit account of election expenses in the prescribed form on or before 03.12.2015. He did not submit the account of election expenses during the stipulated period and thus, committed breach of Section 14(b) of the Act. Mr. Langade submitted that aggrieved by this decision, petitioner preferred Grampanchayat Appeal before the Divisional Commissioner, Pune. By the impugned order, the Additional Commissioner rejected the application. He submitted that in the first place, provisions of Section 14(b) are directory and not mandatory. In support of this submission, he relied upon the order dated 17.11.2015 passed by this Court in Writ Petition No.11208 of 2015 (Brahmanand Gundu Patil Vs. Additional Commissioner, Pune Division) and companion Writ Petitions, and in particular paragraph 7 thereof. Secondly, he submitted that by rejecting the said application, the appeal preferred by the petitioner is rendered infructuous. He, therefore, submitted that the stay deserves to be granted to the order passed by the Collector.

5. On the other hand, learned Counsel for contesting respondents supported the order and submitted that the petitioner did not submit account of election expenses within the stipulated period.

6. I have considered the rival submissions advanced by the learned Counsel appearing for the parties. I have also perused the material on record. As noted earlier, the Collector, Solapur declared petitioner as disqualified under Section 14(b) of the Act. Aggrieved by that decision, petitioner has preferred appeal before the Divisional Commissioner. By refusing to grant stay, the appeal filed by the petitioner is rendered infructuous. Apart from that, perusal of the impugned order shows that no reasons are given in the impugned order. That apart, while refusing stay, the impugned order does not consider whether provisions of Section 14(b) of the Act are mandatory or directory. In view thereof, the impugned order cannot be sustained and as such, is liable to be set aside thereby staying the operation of order dated 30.04.2016 passed by the Collector, Solapur in Dispute Application No.2662 of 2015. Hence, Petition is disposed of in the following terms:

- a. Impugned order dated 08.06.2016 passed by the Additional Commissioner is set aside;
- b. During the pendency of the Appeal before the Additional Commissioner, the order dated 30.04.2016 passed by respondent No.4, Collector, Solapur in Dispute Application No.2662 of 2015 shall remain stayed;
- c. Additional Commissioner is requested to dispose of the appeal within four weeks from the date of the production of the authenticated copy of this order by either of the parties;
- d. Rule is made absolute in the aforesaid terms with no order as to costs.

(R. G. KETKAR, J.)