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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12505 OF 2015

Yogesh Ashok Patil

.. Petitioner

Vs.

1. Arjun Shantaram Bhoir and ors.

.. Respondents

Mr. H. B. Takke for petitioner.

Mr. A. S. Rao for respondent no.2.

Mr. D. S. Mondkar – Hule with Mr. S. B. Shetye for respondent no.4.

Mr. Dushyant S. Pagare i/by Rajesh S. Datar for respondent no.1.

CORAM: NARESH H. PATIL &
M. S. KARNIK, JJ.

MARCH 10, 2017.

P.C.

1. The petitioner, a defeated candidate in election, who contested the election against the respondent no.1, prays for direction to Commissioner, Kalyan Dombivali Municipal Corporation, to refer the issue of alleged disqualification of respondent no.1 a Corporator. Learned counsel for the petitioner refers to provisions of Section 10(1D) and Section 12 of the Maharashtra Municipal Corporation Act, 1949 (for short the Act of 1949).

2. Section 12 of the Act of 1949 reads as under :

“12. Questions as to disqualification to be determined by the Judge.

(1) If any doubt or dispute arises whether a councillor has ceased to hold office as such under section 11, such councillor or any other councillor may, and at the request of the Corporation, the Commissioner, shall refer the question to the Judge.

(2) On a reference being made to the Judge under subsection (1), such councillor shall not be deemed to be disqualified until the Judge after holding an inquiry in the manner provided by or under this Act determines that he has ceased to hold office.”

3. In the facts, we are of the view that the petitioner does not have any locus to pray for issuance of directions. On that ground alone we are not inclined to interfere.

4. Petition is dismissed.

(M. S. KARNIK, J.)

(NARESH H. PATIL, J.)