

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2721 OF 2018

Pranita Nandakumar Kshirsagar,
Age : Major, Occu: Household,
R/o.: Karajkheda, Taluka &
District: Osmanabad. ...Petitioner.

Versus

1. The State of Maharashtra.
2. The Collector, Osmanabad,
Taluka & District : Osmanabad.
3. The Tahsildar, Osmanabad,
Office of Tahsildar, Taluka &
District : Osmanabad.
4. Zilla Parishad, Osmanabad,
Through its Chief Executive Officer,
Osmanabad.
5. Block Development Officer,
Panchyat Samitee, Osmanabad. ...Respondents.

Advocate for Petitioner : Mr. S.S. Kulkarni.
AGP for Respondent Nos. 1 to 3 : Mr. V.S. Badakh.
Advocate for Respondent Nos.4 & 5 : Mr. P.S. Patil.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 21st March, 2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The petitioner who is a female candidate elected

to the Zilla Parishad, is aggrieved by the order dated 01/06/2017, passed by the District Collector and the Corrigendum dated 31/01/2018, issued by the said office.

3. I have considered the submissions of the learned counsel for the petitioner, on behalf of respondent No. 4 and 5 and the learned AGP on behalf of respondent Nos. 1 to 3.

4. The petitioner contends that after the elections were held and the results were declared on 28/02/2017, she was declared elected from the OBC category to a post reserved for women. On 20/04/2017, she received a notice from the District Collector, directing her to submit election expenses. The petitioner has uploaded the accounts of election expenses online on 25/04/2017. On 01/06/2017, the District Collector pronounced his order and disqualified one Mr. Laxman Bhagvan Aglave from Bembli, Taluka and District Osmanabad. No order of disqualification was passed against the petitioner. Subsequently, a Corrigendum was issued on 31/01/2018, and the name of the petitioner was inserted in the said order, so as to declare that she is

disqualified.

5. The learned AGP strenuously points out that a proper hearing was given to the petitioner before passing any order. The reasons assigned by her for delayedly filing the accounts of election expenses, were considered and after noticing that the reasons assigned are not convincing, that she was disqualified.

6. An issue had emerged in a group of petitions before this Court in Writ Petition No. 197/2018 along with Writ Petition No. 813/2018. By judgment dated 14/02/2018, this Court has ruled that in so far as the Maharashtra Village Panchayats Act, is concerned, that any disqualification of an elected candidate for the reason of failure or late filing of the accounts of election expenses is concerned, an opportunity of hearing has to be granted and the reasons assigned are to be considered whether they are satisfactory.

7. The petitioner is held to be disqualified under Section 15 (B) for having failed to lodge the accounts of election expenses within time. Section 15 (B) of Maharashtra Zilla Parishad Panchayat Samitis Act, 1961,

is practically identical to Section 14 (B) of the Village Panchayats Act. Under Section 15 (B), the candidate who has failed in lodging the expenses in time, is to be heard and the reason assigned for such failure is to be considered by the competent authority.

8. In the judgment delivered by this Court on 14/02/2018 in Writ Petition No. 197/12018, Savitribai W/o. Kisan Shinde Versus The Additional Divisional Commissioner, Aurangabad and Others, it has been concluded that the competent authority must assess whether the reasons cited by the candidate are convincing or not. An elected representative cannot be disqualified casually.

9. In the instant case, the explanation tendered by the petitioner is that since, she is a house wife and her children are school going, after the elections, she submitted an incomplete account of election expenses. After collecting necessary details only with regard to the remaining three days of campaigning, she has submitted her account online on 25/04/2017. Learned AGP confirms that the candidates are permitted to submit their accounts online as well as by tendering the

hard copy to the concerned department.

10. It cannot be ignored that the petitioner is a women candidate and who has delayedly submitted her accounts by 33 days. The reasons assigned cannot be said to be unconvincing, keeping in view that she is a house wife and has school going children. The delay neither appears to be deliberate, nor inordinate.

11. Considering the above, this petition is allowed in terms of prayer clause 'B' which reads as under :

“B. Be please to quashed and set aside the order dated 01.06.2017 passed by the Learned Collector, Osmanabad and Corrigendum dated 31.01.2018 passed by the Learned Collector, Osmanabad.”

12. Rule is made absolute in the above terms.

(RAVINDRA V. GHUGE, J.)