

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

WRIT PETITION NO. 4702 OF 2018

1. Aakash s/o Mohan Rathod,
Age 24 years, occup. : Agril,
R/o : Village Met, Tq. Mahur,
Dist. Nanded. .. Petitioner

versus

1. The State of Maharashtra,
through Secretary,
Rural Development, Mantralaya,
Mumbai.
2. The Additional Commissioner,
Divisional Commissioner Office,
Aurangabad.
3. The Collector,
Collector Office,
District. Nanded.
4. The Tahsildar, Mahur,
Tahsil Office Mahur,
Tq. Mahur, Dist. Nanded.
5. The Block Development Officer,
Panchayat Samiti, Mahur,
Tq. Mahur, District Nanded.
6. The Gramsevak,
Village Panchayat, Met,
Taluka Mahur, District Nanded
7. Sau Manisha Vinod Rathod,
Age : ____ years, occup. Household,
R/o Village Met, Tq. Mahur,
District Nanded.

8. Manoj s/o Kishan Rathod,
Age ____ years, occup : Agril,
R/o Village Met, Tq. Maur,
District Nanded ... Respondents

Mr. Yuvraj V. Kakde, Advocate for petitioner
Mr. S. N. Morampalle, Assistant Government Pleader for
respondents no. 1 to 6
Mr. V. P. Raje, Advocate for respondent no.8

CORAM : SUNIL P. DESHMUKH, J.
DATE : 5th June, 2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard learned counsel for parties finally by consent.
2. It is the contention of the petitioner that once the Collector has passed an order disqualifying respondents no. 7 and 8 to be members of gram panchayat, the order passed by appellate authority- on 26-04-2018 staying operation and execution of Collector's order is not justifiable. According to learned counsel, the persons concerned stand disqualified for all purposes and the only relief that can be had in the matter is that election being held for the posts falling vacant since appeal is pending would be subject to outcome of writ petition. He, therefore, takes exception to the order passed by appellate authority – Additional Divisional Commissioner.

3. Learned counsel for respondents no. 8, however, submits that appeal is continuation of the proceedings and there is nothing wrong in impugned order of stay. He submits even otherwise, if appeal is allowed, the order would be untenable and the persons concerned would be put to inconvenience.

4. Over and above, he refers to decision of this court, Nagpur Bench in writ petition no. 2845 of 2016 decided on 06-12-2016 and submits that in said matter, the court had stayed the order passed by the Additional Collector which had been refused to be stayed by appellate authority and the court had stayed disqualification of candidate ordered by Additional Collector. Interim order granted by the high court staying effect and operation of the order of disqualification dated 30-04-2016 passed by the Additional Collector was continued to operate pending decision in the appeal before appellate authority. It was further directed that appeal be expeditiously disposed of.

5. Learned counsel for respondent no. 8 further points out that appeal in present matter is scheduled before appellate authority on 13-06-2018.

6. Having regard to aforesaid submissions, it appears to be expedient not indulge into request being made under writ petition.
7. Writ petition as such is not entertained and is disposed of.
8. Appeal before the appellate authority be decided expeditiously preferably by end of July, 2018.
9. Rule discharged.

SUNIL P. DESHMUKH,
JUDGE

pnd