

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

WRIT PETITION NO. 4015 OF 2018

**JAGNNATH BHUJANGARAO PAWAR AND OTHERS
VERSUS
THE DIVISIONAL COMMISSIONER AURANGABAD AND
OTHERS**

Advocate for the Petitioners : Shri M. M. Parghane
AGP for Respondent Nos. 1 to 3 : Shri K. S. Patil
Advocate for Respondent No. 5 : Shri F. R. Tandale.

**WITH
CIVIL APPLICATION NO. 8339 OF 2018**

**SAYYED AMIR NAWABSAAB
VERSUS
THE DIVISIONAL COMMISSIONER AURANGABAD AND
OTHERS**

...
Advocate for the Applicant : Shri F. R. Tandale.
AGP for Respondent Nos. 1 to 3 : Shri K. S. Patil

...
CORAM : RAVINDRA V. GHUGE, J.

DATED : 25th SEPTEMBER, 2018.

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PER COURT :

1. These three petitioners are aggrieved by the order of the Additional Collector dated 29/08/2017 disqualifying them under Section 14-B for failing to submit the accounts of election expenses within 30 days from the date of the declaration of the results. They are also aggrieved by the order

of the learned Additional Divisional Commissioner, Aurangabad dated 29/11/2017 dismissing their Appeal.

2. The submissions of the learned Advocate for the petitioners, on instructions, are summarized as under :-

(a) All these petitioners were elected on 04/11/2015 as members of the village panchayat, Bhukmari, Taluka Kandhar and District Nanded.

(b) Since they were elected unopposed, they were under an impression that Section 14-B does not apply to them and they are not required to submit their accounts of election expenses.

(c) None of the petitioners had received the notice of hearing dated 19/12/2016 from the District Collector.

(d) It is then submitted that these notices were served upon adult members in the family.

(e) It is then stated that they received the notices prior to the date of hearing and therefore, they appeared before the District Collector.

(f) They did not submit their explanation in writing.

(g) They did not file an application for seeking time to submit a written explanation.

(h) They did not tender their accounts of election expenses even after receiving the notice of hearing.

(i) Even in the petition, it is stated that they did not

furnish their accounts as they were under an impression that they were elected unopposed and have not spent any money for election campaigning.

3. The learned Advocate for respondent No. 5 has supported the impugned orders by contending that the show cause notice issued by the learned District Collector dated 19/12/2016 is self-explanatory. The hearing was posted on 06/01/2017, thereby affording almost 18 days time to these petitioners. Even after appearing before the District Collector, they have not tendered any explanation, save and except the statement that they did not tender their accounts as per the format prescribed since they were under an impression that they are not required to submit such accounts in view of them being elected unopposed.

4. The learned AGP submits that no fault can be found in the concurrent findings of the authorities below.

5. This Court has held in the matters of *Shakti Balkrishna Mhatre Vs. Returning Officer, Panchayat Vindhane and others* [2015(3) Mh.L.J. 275], *Hemraj s/o Yuvraj Patil Vs. State of Maharashtra and others* [2017(1) LJ SOFT 22] and

Savitribai w/o Kisan Shinde Vs. The Additional Divisional Commissioner and others, Writ Petition Nos. 197/2018 and 813/2018 decided on 14/02/2018, that the District Collector has to issue a show cause notice to such candidates keeping in view the intent and purpose behind Section 14-B(1)(b) as a candidate has to be given an opportunity to submit a good reason or justification for such failure. If he tenders a good reason, which would convince the authority that such candidate was justifiably prevented from submitting his accounts, the said provision enables the competent authority to consider the explanation and condone the delay, thereby, maintaining the election of such a candidate.

6. I have perused the notice dated 19/12/2016 and the record clearly indicates that it was served on the adult member in the family of these candidates. Record also reveals that because these candidates received the notices, they have appeared on the appointed date before the learned District Collector and have participated in the hearing. I also find from the show cause notice that these candidates were specifically informed that Section 14 is being invoked against them. They were also called upon to engage an Advocate and appear

before the learned District Collector and submit their written statement alongwith the documents. Despite this situation, it is an admitted position that these candidates have not submitted their accounts even today. The case could have been looked at differently under Section 14-B(1)(b) if these candidates could have tendered these accounts atleast after receiving the show cause notice and could have explained the reasons for the delay.

7. Considering the above, I do not find that the impugned orders could be termed as being perverse or erroneous. This petition, being devoid of merit, is therefore, dismissed.

8. The record and proceedings tendered by the learned AGP are returned so as to be transmitted to the learned District Collector forthwith.

9. Pending Civil Application does not survive and stands disposed off.

(RAVINDRA V. GHUGE, J.)

shp/-