

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11464 OF 2018

(Nirmalabai w/o Shivaji Upare Vs. The State of Maharashtra and
others)

WITH WRIT PETITION NO.11600 OF 2018

WITH WRIT PETITION NO.11617 OF 2018

Mr.Amit S.Deshpande, Advocate for the petitioners.

Mr.P.M.Kulkarni, P.M.Kutti and Mr.K.S.Patil, AGP's for respondent
Nos. 1 and 2.

Mr.P.M.Hiwale, Advocate for respondent Nos. 3 and 4.

Mr.S.T.Shelke, Advocate for respondent No.5.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 17/10/2018

PER COURT :

1. In all these petitions, these petitioners are aggrieved by the order of the District Collector dated 23/03/2018 and of the Additional Divisional Commissioner dated 14/09/2018, by which these petitioners have been disqualified for having failed in submitting their accounts of election expenses within 30 days u/s 14B(1)(a) of the Maharashtra Village Panchayats Act.

2. All the respondents have caused an appearance through their learned Advocates.

3. I have considered the extensive submissions of the learned Advocates. The learned AGP and the respondents pray that these petitions be dismissed with costs.

4. Considering the order that I intend to pass, I am not required to advert to the entire submissions of the learned Advocates. Suffice it to say that, a notice of hearing dated 10/01/2018 has been issued by the District Collector. This Court has held in WP No.197/2018 and a group of matters in Savitribai w/o Kisan Shinde and others Vs. The Additional Divisional Commissioner and others dated 14/02/2018 that a notice of hearing has to be issued to the elected representatives keeping in view Section 14(B)(1)(b) which entitles them to explain the causes of the delay caused in filing the accounts of election expenses beyond the limitation period of 30 days.

5. I have considered the order passed by the District Collector and by the Additional Divisional Commissioner. Issue is that these petitioners have been declared elected in the results dated 08/11/2017, the limitation expired on 07/12/2017, accounts were submitted on 26/12/2017 and yet, the delay of 19 days which was explained on the strength of medical certificates, has not been considered u/s 14(B)(1)(b).

6. The learned AGP and the learned Advocates appearing for the respondents submit that though medical certificates were tendered by these petitioners, they had participated in a Gram Panchayat meeting which fell on a date covered by the period of illness. As such, a false medical certificate was submitted by these petitioners and hence they deserve to be disqualified for attempting to play a fraud on the system.

7. Notwithstanding the above submissions, I do not find from the impugned orders of the authorities that either of them has considered or these authorities conclude that the medical certificates were false and the delay of 19 days cannot be condoned despite the explanation tendered. There is no conclusion drawn by both the authorities that the explanation submitted by these petitioners does not deserve to be entertained u/s 14(B)(1)(b) and the delay of 19 days is sufficient to disqualify them, though they have been democratically elected.

8. On the above short issue, these petitions are allowed and the impugned orders are quashed and set aside. The proceedings pertaining to these petitioners shall stand restored to the office of

respondent No.1/ District Collector, Hingoli. These litigating sides shall appear before the District Collector on 31/10/2018 at 12.00 noon. Formal notices need not be issued. These litigating sides are permitted to tender their written notes of submissions on 31/10/2018 and thereafter the District Collector would post the matter for delivering his orders on 15/12/2018. These litigating sides would remain present in the office of the District Collector on 15/12/2018 for the pronouncement of his orders. Needless to state, the District Collector would adduce reasons keeping in view the intent and object of clause (b) u/s 14 B(1) of the Maharashtra Village Panchayats Act. In the event, the District Collector notices any fraud played by any litigant, he shall direct lodging of an FIR and criminal action against such litigant.

9. These petitioners shall not be reinstated as members of the Gram Panchayats subject to the result of the litigation. However, the State Authorities would not declare their positions vacant in view of the pending decision of the District Collector.

(Ravindra V.Ghuge, J.)