

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11950 OF 2018

Suresh s/o Raosaheb Deshmukh,
Age-67 years, Occu-Agriculturist,
R/o Akhada-Balapur,
Tq.Kalamnuri, Dist.Hingoli

– PETITIONER

VERSUS

1. The Additional Commissioner,
Aurangabad Division, Aurangabad,

2. The Collector, Hingoli,

3. The Tahsildar,
Tahsil Office, Kalamnuri,
Tq.Kalamnuri, Dist.Hingoli

– RESPONDENTS

Mr.S.K.Chavan, Advocate for the petitioner.
Mr.P.N.Kutti, AGP for the respondent/State.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 30/10/2018

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The petitioner is aggrieved by the common order dated 23/08/2017 passed by the District Collector, Hingoli disqualifying 41 elected representatives by an order in which he has referred only to the provisions of Law.

3. This matter was heard at length on 25/10/2018 and was posted today for “passing orders”.

4. The learned AGP Mr.Kutti has strenuously opposed this petition. He submits that the District Collector has considered the dates on which the election results were declared, the dates on which some elected representatives submitted their accounts of election expenses and considering that no satisfactory explanation was tendered as is required u/s 15B (1)(b) of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, he has rightly disqualified these petitioners and similarly placed candidates.

5. I find from the record before me that the Election Returning Officer has signed on a document dated 04/03/2017 which is at page No.17 indicating that the petitioner has submitted his accounts. I also find from the copy of the affidavit at page No.18 that the same Returning Officer has endorsed that an affidavit was filed by the petitioner on 04/03/2017 before him. I do not find from the impugned order of the District Collector that he has even referred to the record before him or the contentions of the petitioner. The learned AGP submits that though the District Collector may not have

assigned reasons, the disqualification of the petitioner is justified.

6. I am unable to accept such contentions for the reason that the record prima facie reveals that this petitioner has tendered his accounts and an affidavit in support thereof on 04/03/2017 which is received by the Returning Officer. The District Collector should have considered the contentions of the petitioner and should have called upon the Returning Officer to explain whether he has factually received these documents. In the absence of any reasons and without analyzing the contentions of the litigating sides, the District Collector has merely observed that 41 candidates have not submitted their election expenses and therefore he is invoking his powers under various provisions of Law for disqualifying him.

7. The above fact situation should have been gone into by the Additional Divisional Commissioner when he delivered the impugned order dated 21/08/2018. There is no reference to the contentions of the petitioner and as such, the error committed by the Collector has also been committed by the Additional Divisional Commissioner.

8. In view of the above, this petition is partly allowed. The impugned order of the District Collector dated 23/08/2017 and the

order dated 21/08/2018 passed by the Additional Divisional Commissioner is quashed and set aside. The case of this petitioner is remitted to the office of the District Collector with a direction that he would register the said case. The petitioner shall appear before the District Collector, Hingoli on 21/11/2018 at 12.00 noon. He is at liberty to submit his written notes of submissions and address the concerned Authority. The said authority is at liberty to verify the documents cited by the petitioner and may also call upon the Returning Officer to make a statement whether he has signed on the 2 documents at page Nos. 17 and 18 of the petition paper book in token of acceptance of the accounts and affidavit submitted by the petitioner. Thereafter, the said authority shall pass a reasoned order considering the contentions of the petitioner.

9. Rule is made partly absolute in the above terms.

(Ravindra V.Ghuge, J.)