

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

WRIT PETITION NO. 11925 OF 2017

PRASHANT VITTHAL YELKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr Patil Kalyan V.
AGP for Respondents: Mr. S P Tiwari
Advocate for Respondents : S M Vibhute for R/5, Mr S S
Wagh h/f Shelke Shivaji T. For R/2,3

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CORAM : V.K. JADHAV, J.
Dated: April 02, 2018

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PER COURT :-

1. The petitioner raised an objection at the time of filing of nomination against respondent no.5 having a third child born to him after the cut-off date. Respondent nos. 3 to 4 herein refused to accept the objection raised by the petitioner. Petitioner has therefore preferred this writ petition.

2. During the pendency of this writ petition, the election process was completed and respondent no.5 got elected as a Member of the Village Panchayat Soni Sangavi-Tupadi of Ward No.3.

3. By order dated 28.9.2017 while entertaining this writ petition, this court has issued notices to the respondents with the observations that, election of respondent no.5, if he so elected, shall be subject to the result of this writ petition. Since then, this writ petition is pending before this Court.

4. In view of the provisions of section 14 (1) (j-1) read with section 16 of the Maharashtra Village Panchayat Act, 1958, disqualification proceedings can be initiated before the Collector and in terms of section (2) of Section 16 of the Act of 1958 (for short referred as 'Act of 1958'), any person aggrieved by the decision of the Collector may within a period of 15 days from the date of such decision even further prefer an appeal.

5. In view of the above, petitioner has got statutory remedy to file the application for disqualification of the respondent no.5 under the provisions of section 14 (1) (j-1) read with section 16 of the Act of 1958. In case, such dispute is raised within three weeks from the date of

this order, the concerned Collector shall entertain the dispute in terms of the provisions of Section 14 (1) (j-1) read with section 16 of the Act of 1958 and decide the same on its own merits in accordance with law.

6. Writ Petition accordingly disposed of. No costs.

(V.K. JADHAV, J.)

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