

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

940. WRIT PETITION No. 12537 of 2018

Sunil Supadu Mahajan

... Petitioner

Versus

The Divisional Commissioner, Nashik and others... Respondents

Mr. S.P. Shah, Senior Advocate for petitioner.

Mr. S.B. Pulkundwar, Asstt. Govt. Pleader for respondent No.1.

Coram : N.M. Jamdar, J.

Date : 21 November 2018.

PER COURT:

1. Heard the learned Counsel for the petitioner.
2. The petitioner has challenged the order of issuance of notice by the Divisional Commissioner dated 26 September 2018 calling upon the petitioner to show cause why he should not be disqualified from holding the office of the Corporator. The stage at which the petitioner had approached this court, is only of issuance of show cause notice. The petitioner can always point out all his

grievances and objections to the show cause notice and demonstrate that he should not be disqualified by filing appropriate reply. The learned Counsel for the petitioner relying on the decision of the Single Judge of this Court in *Writ Petitions No. 3962, 4007, 4039, 4040 of 2005 reported in 2005(4) Mh.L.J. 211*. The learned Counsel submitted that the Commissioner ought not to have issued notice in the first place as the persons, who have filed an application, had no locus to do so.

3. The ground urged will also entail an adjudication. The petitioner has not pointed out this position to the Divisional Commissioner. This argument can be advanced before the Divisional Commissioner. The exercise of the power under Article 227 of the Constitution of India is discretionary. Availability of alternate remedy is a settled ground for non exercise of the power.

4. Considering the fact that the contentions, which the petitioner has advanced before this Court, can be effectively advanced before the Divisional Commissioner. I am not inclined to interfere in the writ jurisdiction. No prejudice is caused if the petitioner is directed to approach the Commissioner to point out this ground.

5. The learned Counsel submitted that the petitioner will file an application setting out the grounds, which according to the

petitioner, notice itself should not have been issued. The Divisional Commissioner will take up the application for consideration first and decide the same on its merits.

6. The petition is disposed of as above.

N.M. Jamdar, J.