IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11665 OF 2018
WITH WP/11666/2018 WITH WP/11667/2018
WITH WP/11668/2018 WITH WP/11669/2018
WITH WP/11670/2018 WITH WP/11671/2018
WITH WP/11676/2018

SHANKAR HARISINGH CHAVAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...
Advocate for Petitioners : Shri Chaudhari Nitin K
AGP for Respondents 1 to 5 : Shri Yadav-Lonikar S.R.
Advocate for Respondent 6 : Shri Sandanshiv M.B.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 20, 2018
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PER COURT :-

1. In all these petitions, each of the identically situated petitioners are aggrieved by the order dated 15.2.2018 passed by the District Collector, by which, these petitioners were disqualified under Section 14B(1)(a) for having failed in submitting their accounts of election expenses within 30 days from the date of the election.

2. I have heard the learned Advocates and the learned AGP on behalf of the respective sides on 19.10.2018 and today. Considering that the crucial issue that arises in this matter, which was never properly scrutinized by the authorities below, I have no reason to deal with the entire submissions of the learned Advocates.

3. The result of the elections to the Gram Panchayat Ambhoda-Kadam was declared on 3.11.2015. The accounts of election expenses were required to be furnished by these petitioners on /or before 3.12.2015. Each of the petitioners took a stand that they have submitted their accounts on 30.11.2015 to one of the members of the Election Expenses Squad Shri B.K.Pawar. Later on, as the controversy arose before the District Collector, that the accounts were not tendered in proper format, once again the accounts were re-arranged in proper format and tendered before the Collector.

4. I have been pointed out a specific acknowledgment receipt dated 30.11.2015, with the imprint of the Tahsil Office Mantha, bearing the signature of one Shri B.K.Pawar, who was the member of the Election Account Squad. The said receipt is placed on record in all these petitions bearing the date 30.11.2015. The petitioners contend that this receipt was produced by them before the Additional Divisional Commissioner and the matter was remanded by an earlier order of the Divisional Commissioner.

5. I find from the record and as has been rightly pointed out by the learned AGP that the Divisional Commissioner called upon the Returning Officer to express his views on such acknowledgment

receipts, which indicate that these petitioners had submitted their accounts within 30 days from the date of the elections. The Returning officer plainly stated that he has not signed the said acknowledgment receipts.

6. The crucial aspect lost sight of by the authorities below is that when these petitioners specifically contend that Shri B.K.Pawar has signed the said receipt while acknowledging the acceptance of the account of the election expenses, Shri Pawar should have been confronted to express as to whether he has signed on the said receipt or whether he dis-owns his signature. Somebody else saying that he has not signed would not amount to Shri Pawar's signature being false or fabricated as Shri Pawar is yet to take a stand on this point.

7. It is only for the above reasons, that these petitions are partly allowed in terms of prayer clause (B). Both the orders of the authorities below are set aside. All the proceedings involving these petitioners are remitted to the District Collector, Jalna / respondent No.3. These litigating sides shall appear before him on 26.10.2018 at 11.00 am. Formal notices need not be issued.

8. The District Collector shall issue notice to Shri B.K.Pawar and grant him at least three weeks' time to think on the issue and make a

statement in writing, before the District Collector as to whether he confirms his signature on the acknowledgment receipts dated 30.11.2015 or whether he disowns the said signature. If he disowns the signature, the District Collector should refer the said signature, to a Government approved handwriting expert by following the specific procedure laid down in law and call for the opinion of a handwriting expert. After such opinion is expressed the District Collector would proceed to deal with the said cases on their own merits, considering the effect of Section 14B(1)(a) and (b) of the Maharashtra Village Panchayats Act.

9. None of the these petitioners shall stand automatically reinstated to their elected position. However, the State Election Commission shall not initiate the process for causing elections to the positions that have fallen vacant by the disqualification of these petitioners, till the District Collector decides the proceedings. The District Collector shall endeavour to deliver his reasoned order after complying with the above directions as expeditiously as possible and in any case on/or before 31.1.2019.

(RAVINDRA V. GHUGE, J.)

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