

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

WRIT PETITION NO.12285 OF 2018

Vicky s/o Balu Waghmare & others ... Petitioners

Versus

Sanjay s/o Manikrao Barkul & others ... Respondents

Mr.V.D.Salunke, Advocate for the petitioners.

Mr.V.S.Undre, Advocate for Respondent No.1.

Mr.S.B.Pulkundwar, AGP for Respondent No.6.

Coram : N.M. Jamdar, J.

Date : 30 November 2018.

Oral Order :

1 Heard learned Counsel for the parties.

2 The petitioners have approached this Court by way of this writ petition with a prayer that the order dated 17 October 2018, passed by the Collector, rejecting the objection regarding *res judicata* and directing further enquiry in the application, be quashed and set aside.

3 Notice was issued in this petition on 1 November 2018
and following order was passed:

“1 I briefly heard the learned Advocates.

2 Respondent No.1 – contesting candidate submits that the matter before the District Collector, Osmanabad today is with regard to advancing final arguments in the matter and thereafter the District Collector would close the matter for orders.

3 The learned Advocate for the petitioner has filed a service affidavit on the basis of which the learned Advocate for respondent no.1 has appeared.

4 Stand over to 22/11/2018 in the urgent admissions category.

5 In the meanwhile, though the litigating sides can proceed to advance their oral submissions before the District Collector, the said authority would refrain from delivering its order until the returnable date in this matter.

6 The learned AGP appearing on behalf of respondent No.6 orally submits that he would telephonically convey this order to respondent No.6.

4 Thereafter the petition came up for hearing on 22 November 2018 and upon hearing the parties, following order was passed:

“Learned counsel for respondent no.1 tendered affidavit-in-reply. It is pointed out that by ad-interim order, the Collector is being restrained from passing a final order. My attention is drawn to the averments made in paragraph no.10 of the petition. It appears that, the petitioner has alleged personal bias on the part of the Collector, who will pass an order. Apart from the allegations being totally in general nature, the Collector has also not been joined as party respondent by name. On this ground alone, this ground could have been negated, however, the learned counsel for the petitioner seeks time to file an affidavit.

2 Stand over to 29 November, 2018.

3 Ad-interim order to continue till the next date of hearing.”

5 Learned Counsel for the petitioners tenders an affidavit of the petitioners wherein the petitioners have sought deletion of the sentence in paragraph 8 of the petition and paragraph 10 of the petition. Learned Counsel for the petitioners submits that as far as rest of the contentions, which are raised by the petitioners on law and

facts, will be urged by the petitioners before the Collector.

6 Learned Counsel for the respondents has no objection to this course of action.

7 Accordingly, bracketed portions in paragraph 8 of the petition and paragraph 10 of the petition are struck off from the records of this petition. The Registry to carry out necessary amendment.

8 The Collector will, accordingly, proceed with the pending matter as per law. All contentions of the petitioners as well as respondents are kept open to be urged before the Collector. The Collector will accordingly take a decision on the complaint as expeditiously as possible.

9 It is made clear that apart from personal *mala fides* attributed and which have been deleted, all other grounds available to the petitioners in law and facts are kept open to be urged before the Collector, irrespective of rejection of the application filed by the petitioners, which is impugned in this petition.

10 The writ petition is accordingly disposed of. Ad-interim order restraining the Collector from taking decision is vacated.

N.M. Jamdar, J.