IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13339 OF 2017

Sami Mohammad s/o Shaikh Mohammad ...Petitioner

versus

The Additional Divisional Commissioner,
Aurangabad and others ...Respondents

.....

Mr. R.V. Gore, advocate for the petitioner
Mr. S.P. Tiwari, A.G.P. for respondent Nos. 1 to 3
Mr. D.P. Palodkar, advocate for respondent No.4

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CORAM : V. K. JADHAV, J.

Date of Reserving the Order : 06.02.2018

Date of pronouncing the Order: 17.04.2018

ORDER:-

1. By consent of the parties, heard finally at admission stage.

2. Being aggrieved by order dated 18.10.2017 passed by the Additional Divisional Commissioner, Aurangabad, thereby confirming the order dated 28.06.2017 passed by the Additional Collector, Aurangabad in disqualification Case No. 172, thereby disqualifying the petitioner as a member of the Grampanchayat, the petitioner has preferred this Writ Petition.

3. Brief facts giving rise to the present Writ Petition are as follows:-

a) In the general elections of Grampanchayat Ajintha, Taluka Sillod, District Aurangabad, held in the month of August 2015, the petitioner got elected as a member from ward No.5. Respondent no.4 herein filed a dispute under Section 14(1)(i) of the Maharashtra Village Panchayats Act, 1958 (hereinafter, for short, referred to as "the Act of 1958") with the Additional Collector, Aurangabad contending therein that the petitioner is working in Mini Industrial Training Institute (I.T.I.) at Fardapur, Tq. Soyagaon, since 1999 and being a Government servant, he is disqualified as a member of the Grampanchayat. It was contended in the said dispute that the petitioner has given false and incorrect information to the Election Commission regarding his job and got elected from the said ward.

b) In response to the notice issued by the Additional Collector, Aurangabad in the said dispute, the petitioner appeared in the matter and filed his reply thereby denying the allegations made by respondent No.4. The Additional Collector, by order dated 28.6.2017, on the basis of the material placed before him, has allowed the disqualification dispute and disqualified the petitioner as member of Grampanchayat on the ground that the petitioner is working on the post of Clerk and therefore, he has been disqualified in view of Section 14(1)(i) of the Act of 1958.

c) The petitioner, being aggrieved by the order passed by the Additional Collector, has preferred appeal bearing No. 26 of 2017 under Section 16(2) of the Act of 1958 before the Additional Divisional Commissioner, Aurangabad. The learned Additional Commissioner, vide order dated 18.10.2017, has dismissed the appeal and confirmed the order passed by the Additional Collector. Hence, this writ petition.

4. Learned counsel for the petitioner submits that the Additional Collector has failed to appreciate the Government Circular dated 24.4.2017 in which it is made clear that the Additional Collector is not having power to entertain the matter relating to election of Grampanchayat and therefore, the dispute filed by respondent no.4 before the said authority is not at all maintainable. The Additional Collector has not considered order dated 08.6.2012 (Exhibit “C”) in which the name of petitioner is appearing at Sr. No.3. The petitioner is serving on contract basis with the District Rural Development Agency (for short “DRDA”). An agreement to that effect is executed between the Chairman of DRDA and the petitioner and there is no master and servant relationship between the parties to the agreement. The Rules of DRDA in Maharashtra are separate and as

per Rule 1.5, the DRDAs will maintain their separate identity. Learned counsel submits that the documents placed on record are sufficient to hold that the petitioner is not a Government servant and even not a servant of local authority as contemplated in Section 14(1)(i) of the Act of 1958. Learned counsel submits that the lower authorities have not considered the provisions of Section 3(31) of the General Clauses Act, 1897. One can not import the grounds of disqualification of other statutes for disqualifying a member of Panchayat. Learned counsel submits that the findings of both the authorities below in respect of service of the petitioner are perverse, as both the authorities failed to consider that the petitioner was working on contract basis and that a person working on contractual post is not a servant of the Government or a servant of local authority as contemplated in Section 14(1)(i) of the Act of 1958.

Learned counsel for the petitioner, in order to substantiate his contentions, placed reliance on the following judgments:-

i) **Shivaji Manohar Kale vs. Additional Divisional Commissioner, Aurangabad and others**, reported in **2011 (6) Mh.L.J. 344,**

ii) **State of U.P. and Ors. vs. Pitamber**, reported in **2010 SCC Online ALL 1550**,

iii) **The State of Assam and others vs. Kanak Chandra Dutta**, reported in **AIR 1967 SC 884**

5. Learned counsel for respondent no.4, who is the only contesting party to this writ petition, submits that the petitioner is working as a Clerk with the DRDA since 1999 and even on the date of filing of nomination form as well as on the date of election, the petitioner was working on the said post. The Scheme of DRDA is very important. Chapter I deals with the role and functions of DRDAs. All functions from clauses 1.1 to 1.15 of Chapter I make it clear that DRDAs are carrying out functions of local authority and administrating the local funds. Chapter II deals with organizational structure of DRDAs. Chapter III is regarding administration of DRDAs. From plain reading of clauses 5.1 to 5.4, it is clear that DRDA is nothing but a local authority. Learned counsel submits that once the petitioner is engaged in a service, either temporarily or on contract basis, it is his duty to seek permission from the employer for participating in any kind of political activity, such as contesting an election. Learned counsel submits that considering the aforesaid facts, the Additional Collector has not committed any error in passing the impugned order.

Learned counsel for respondent no.4, in order to substantiate his contentions, placed reliance on the following judgments:-

i) **Kedar Shashikant Deshpande and others vs. Bhor Municipal Council and others**, reported in **(2011) 2 SCC 654,**

ii) **Union of India and others vs. Shri R.C. Jain and others**, reported in **(1981) 2 SCC 308**,

iii) **Babasaheb Devram Sathe vs. Daga Mahadu Gavande and others**, reported in **2011 (6) Mh.L.J. 449** and

iv) **Sahebrao Khandu Patil and others vs. Joharabai Latif Patel and others**, reported in **(2003) 1 Bom. C.R. 172.**

6. I have also heard learned A.G.P. for respondent nos. 1 to 3.

7. The learned counsel for the petitioner has vehemently submitted that in the appointment letter dated 08/28.06.2012, name of the petitioner is appearing at serial no. 3 and as per the terms and conditions at serial no.1, the petitioner has executed an agreement on bond of Rs.100/- with the Chairman of DRDA. A copy of the agreement is annexed with the petition. As per clause 12 of the agreement, it is made clear that there would be no master-servant relationship between the parties to the agreement and as such, this undisputed document is sufficient to hold that the petitioner is neither a Government servant nor a servant of local authority as contemplated under Section 14(1)(i) of the Act of 1958. DRDA is a

society registered under the Societies Registration Act, 1860 and also registered with the Assistant Charity Commissioner, Aurangabad. A copy of the Rules of DRDA is annexed with the Writ Petition which shows that DRDA is not a local authority. The learned counsel submits that the term “local authority” is defined under Section 3(31) of the General Clauses Act, 1897. In terms of the Rules of DRDA, it is not the local authority and thus, the judgment and orders impugned in this Writ Petition are liable to be quashed and set aside.

8. Having gone through the certificate of registration of DRDA, the memorandum of association, the Rules and the service regulations of the employees working in DRDA and in the light of the the view expressed by the Supreme Court in the case of **State of U.P. and Ors. vs. Pitamber** (supra), relied upon by the learned counsel for the petitioner, I agree with the submissions made by learned counsel on behalf of the petitioner that the petitioner, being the employee of DRDA, is not a Government employee.

9. In the said case of **State of U.P. and Ors. vs. Pitamber**, the Supreme Court has dealt with the following two issues:

> 1. Considering the Bye-laws of the Society and more specifically Bye-laws 19 and 20(h) read with Government

Notification dated March 17, 1994, was it open to the State Government to have issued the Government Order dated 09.03.2004 fixing the age of retirement of the employees of DRDA as 58 years?

2. Whether the employees of DRDA are holding civil posts and/or are Government employees of the State, in order to make applicable Rule 56 of the Fundamental Rules and, consequently, would they be governed by Government Notification dated 28.11.2001, whereby the age of retirement of the government servants has been fixed as 60 years under Rule 56 of the Fundamental Rules?

10. The second question as framed by the Supreme Court is relevant as to whether an employee of DRDA is holding a civil post and is a Government servant. In the aforesaid case, the Supreme Court has discussed and referred many cases. Prominent amongst them are the following cases:

1. **The State of Assam vs. Kanak Chandra Dutta**, reported in **AIR 1967 SC 884,**

2. **Superintendent of Post Offices vs P. K. Rajamma**, reported in **AIR 1977 SC 1677**,

3. **State of U.P. Vs Chandra Prakash Pandey & Ors.**, reported in **2001 (2) AWC 1399 (SC)**

and lastly, the following case which clearly holds the field

4. **Steel Authority of India Ltd. vs National Union Waterfront Workers**, reported in **(2001) 7 SCC 1**.

11. The Supreme Court, in para 16 of the judgment in the said case of **State of U.P. and Ors. vs. Pitamber**, has made the following observations and concluded the issue:

> *"16 Considering the above referred judgments and the material on record, it will be clear that firstly the DRDA is a Society registered under the Societies Registration Act. Its funding is 70 percent from the Central Government and 30 percent from the State Government. The members of the Society and also the Working Committee are basically persons holding the posts in Government service, mostly in the State Government and some in the Central Government, as the object is of rural development. Bye-law 20 (h) recognizes that the staff are to be appointed by the Governing Body. The accounts are to be approved by the Governing Body in its annual general meeting. Suits are to be filed against the Society. Thus, though there may be funding by the Central/State Governments and control by the State Government, nonetheless they are employees of the Society. Some posts are filled up on transfer by the Governor and in respect of others, appointments are to be made by the Chief Executive Officer, who is the District Magistrate. Considering the tests laid down in Kanik Chandra Dutta*

(supra), we are clearly of the opinion that the tests laid down in the judgment of the Supreme Court are not satisfied. Once it is held that they are the employees of DRDA and are not holding civil posts in the service of State, Rule 56 of the Fundamental Rule would not apply to them."

12. In view of the above observation and the ratio laid down by the Supreme Court, there need no further discussion on the point that the petitioner being an employee of DRDA is not holding civil post in the service of the State and as such, he is not a government servant.

13. I find substance in the submission made by the learned counsel for respondent no.4 that DRDA is a local authority and in terms of Section 14(1)(i) of the Act of 1958, the petitioner has incurred disqualification. Section 3(31) of the General Clauses Act, 1897 defines the term "local authority". The said definition reads as under:

> "3(31) "local authority" shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund"

The definition of "local authority" in Maharashtra General Clauses Act (Bombay Act No.I of 1904) in Section 3(26) is also the same.

14. In the case of **Union of India and others vs. Shri R.C. Jain and others** (supra), relied upon by learned counsel for respondent no.4, the Supreme Court has explained the words and phrase “local authority” and its meaning. In para 2 of the judgment, the Supreme Court has made the following observations:

> “2. Let us, therefore, concentrate and confine our attention and enquiry to the definition of 'Local Authority' in Sec.3(31) of the General Clauses Act. A proper and careful scrutiny of the language of Sec.3(31) suggests that an authority in order to be a local Authority, must be of like nature and character as a Municipal Committee, District Board or Body of Port Commissioners, possessing, therefore, many, if not all, of the distinctive attributes and characteristics of a Municipal Committee, District Board, or Body of Port Commissioners, but, possessing one essential feature, namely, that it is legally entitled to or entrusted by the Government with, the control and management of a municipal or local fund. What then are the distinctive attributes and characteristics, all or many of which a Municipal Committee, District Board or Body of Port Commissioners shares with any other local authority? First, the authorities must have separate legal existence as Corporate bodies. They must not be mere Governmental agencies but must be legally independent entities. Next, they must function in a defined area and must ordinarily, wholly or partly, directly or indirectly, be elected by the

> inhabitants of the area. Next, they must enjoy a certain degree of autonomy, with freedom to decide for themselves questions of policy affecting the area administered by them. The autonomy may not be complete and the degree of the dependence may vary considerably but, an appreciable measure of autonomy there must be. Next, they must be entrusted by Statute with such Governmental functions and duties as are usually entrusted to municipal bodies, such as those connected with providing amenities to the inhabitants of the locality, like health and education services, water and sewerage, town planning and development, roads, markets, transportation, social welfare services etc. etc. Broadly we may say that they may be entrusted with the performance of civic duties and functions which would otherwise be Governmental duties and functions. Finally, they must have the power to raise funds for the furtherance of their activities and the fulfillment of their projects by levying taxes, rates, charges, or fees. This may be in addition to moneys provided by Government or obtained by borrowing or otherwise. What is essential is that control or management of the fund must vest in the authority."

15. In order to be a "local authority" within the meaning of Section 3(31) of the General Clauses Act, 1897, an authority should possess most, if not all, of the distinctive attributes and characteristics of a Municipal Committee, District Board or body of Port Commissioners, who must possess one essential feature, namely, that it is legally

entitled to or entrusted by the government with, the control and management of a municipal or local fund.

16. In the case of **Babasaheb Devram Sathe vs. Daga Mahadu Gavande and others (supra)**, this Court (Coram: S. C. Dharmadhikari, J.) has dealt with the issue whether Agricultural Produce Market Committee is a local authority and by referring various cases including the aforesaid case of **Union of India and others vs. Shri R.C. Jain and others**, observed the test to determine the concept of local authority. In para 17, this Court has made the following observations:

> “17. The broad test indicated is that the authority must have separate legal existence as a corporate body. The authority must not be mere governmental agency, but, must be legally independent entity. It must function in defined area and must ordinarily, wholly or partly, directly or indirectly be elected by the inhabitants of the area. It must enjoy a certain degree of autonomy, with freedom to decide for themselves questions of policy affecting the area administered by them. The autonomy may not be complete and the degree of the dependence may vary considerably but, an appreciable measure of autonomy there must be. It must be entrusted by Statute with such governmental functions and duties as are usually entrusted to municipal bodies, such as those connected with providing amenities to the inhabitants of the locality, like health and education services, water and sewerage,

> town planning and development, roads, markets, transportation, social welfare services etc. Broadly it must be entrusted with the performance of civic duties and functions which would otherwise be governmental duties and functions. Finally, it must have power to raise funds for the furtherance of the activities and the fulfilment of the projects by levying taxes, rates, charges or fees. This may be in addition to monies provided by government or obtained by borrowing or otherwise. What is essential is that control or management of the fund must vest in the authority.

17. In this back drop, it is necessary to consider the situation and the role of DRDA. DRDA has traditionally been a principal organ at the district level to oversee the implementation of the different anti-poverty programmes. The scheme is funded on 75:25 basis between Center and States and it aims at strengthening and professionalizing the DRDAs. So far as the role and function of the DRDA is concerned, it is an effective programme designed to implement successfully the rural development programmes. The DRDA is not merely an implementing agency, but can be very effective in enhancing the quality of implementation of different programmes and ensuring that necessary linkages are provided. It is a professional agency capable of managing the anti-poverty programmes of the Ministry of Rural Development on the one hand and to effectively relate these to the overall effort of poverty eradication in the District.

DRDA is expected to co-ordinate with the line departments, the Panchayat Raj Institutions, the banks and other financial institutions, the NGOs as well as technical institutions, with a view to gathering support and resources required for poverty eradication efforts in the district. DRDA is expected to co-ordinate effectively with the Panchayat Raj institutions. Following are the silent features of DRDA:

1. Organizational structure of DRDA:

(i) Each district will have its own District Rural Development Agency. Ordinarily, it would be a society registered under the Societies Registration Act. The accounts of DRDA should under no circumstances be merged or amalgamated with Zilla Parishads.

(ii) DRDA has got an appropriate staffing structure as well as suitable personnel policy. Keeping in view the role and functions of the DRDA, the staffing structure of the DRDA includes positions for planning for poverty alleviation, project formulation, social organization, capacity building, general concerns, engineering supervision, quality control, project monitoring, accountancy, audit functions as well as evaluation and impact studies.

(iii) Each DRDA should be headed by a Project Director who should be of the rank of Additional District Magistrate. In some States, such as Maharashtra, it is suggested that CEO of the Zilla Parishad should be presented as Director of the DRDA.

(iv) Each DRDA should have the following wings:

(a) Self Employment Wing, (b) Women's Wing, (c) Wage Employment Wing, (d) Engineering Wing, (e) Accounts Wing, (f) Monitoring and Evaluation Wing, (g) General Administration Wing.

2. Administration of DRDAs:

(i) The DRDA is the society registered under the Societies Registration Act. The Chairman of Zilla Parishad shall be the Chairman of the governing body of DRDA. The executive and financial function shall however lie with the CEO of the Zilla Parishad/District Collector who shall be designated as Chief Executive Officer or Executive Director.

(ii) Administration of DRDA shall be carried out by the governing body.

(iii) Composition of the governing body shall be as follows:

1) Chairman of Zilla Parishad - Chairman, 2) All MPs, MLAs and MLCs of the District, 3) 1/3rd of Panchayat Samiti Chairpersons to be nominated by rotation, one of whom must belong to SC/ST and another a women, 4) CEO of Zilla Parishad/District Collector-Chief Executive Officer/Executive Director, 5) Head of the Central Co-operative Bank of the District, 6) Chairman, Regional Rural Bank, 7) District Lead Bank Officer, 8) representative of the Reserve Bank of India at district level, 9) NABARD representative at district level, 10) General Manager, DIC, 11) representative of KVIB, 12) District Officer In-charge of Scheduled Castes/Scheduled Tribes Welfare, 13) District Women and Child Welfare Officer, 14) District Officer dealing with welfare of the disabled,

15) One representative from technical institutions, 16) two representatives of NGOs, 17) two representatives of the weaker sections, one of whom may be drawn from SCs and STs, 18) one representative of rural women, 19) Project Director of DRDA-Member Secretary.

iv) All executive and financial powers of DRDA shall be exercised by the executive committee as per the scheme of delegation of financial and executive powers to be determined by each State.

3. Financial procedures:

The scheme of “DRDA Administration' shall be Centrally sponsored scheme. The funds required under this programme shall be shared between the Centre and the States in the ratio of 75:25. Funds will be released directly to the DRDAs in accordance with the guidelines under this programme.

18. As per bye-laws of Aurangabad DRDA, its main features are as under:

(i) so far as 'powers of governing body' is concerned, Rule 20 empowers the society, in a general meeting, to provide duties, powers, functions and rights whatsoever or consequential and incidental to the carrying out of the objectives of the society, only to be exercised or performed by the governing body subject to such limitations as the Government of India and the Government of

Maharashtra may from time to time impose in respect of the expenditure of its grants, donations, endowments and income from other sources.

(ii) In terms of Rule 21, the governing body is also empowered to make, amend or repeal any bye-laws relating to the administration and management of the affairs of the society subject to the observance of the provisions contained in the Societies Registration Act, 1860. In terms of clause (b) of Rule 21, the governing body may consider the annual budget and its subsequent alterations placed before it by the Member Secretary from time to time to pass it with such modifications as the governing body may think fit.

(iii) Rule 30 provides that the Funds of the Society shall consist of the following: (a) recurring and non-recurring grants made by the Government of India and the Government of Maharashtra for the furtherance of the objectives of the society, (b) income from investments and (c) income from other sources. Rule 31 states that the bankers of the society shall be appointed by the governing body. All funds of the society should be paid into the society's account with the said bankers and shall not be withdrawn except on cheques signed by the Chairman and countersigned by the Secretary duly empowered in this behalf.

(iv) The procedure for “accounts and audit” is prescribed in Rules 32 to 35. Rule 33 states that an annual report of the proceedings of the society and of all work undertaken during the year shall be prepared by the governing body for the information of the Government of Maharashtra, Government of India and the members of the society. This report and the audited accounts of the society shall be placed before the society at the Annual General Meeting.

(v) Rule 36 under the heading “property of the society” lays down that all property belonging to the society shall be deemed to be vested in the governing body of the society, but shall be referred as 'the property of the society'.

(vi) “Suits and proceedings by and against the society” is dealt with by Rules 39 to 44. Rule 39 states that a) The society may sue or may be sued in the name of the Chairman or Secretary of any office bearer authorised by the governing body in this behalf, b) No suit or proceeding shall abate by reasons of any vacancy or change in the holder of the office of the Chairman, the Secretary or any office bearer authorised in this behalf, c) Every decree or order against the Society in any suit or proceeding shall be executable against the property of the society and not against the person or the property of the Chairman, the Secretary or any office bearer, d) Nothing in sub-section (c) shall exempt the Chairman, the Member Secretary or office bearer of the society from any criminal liability or entitle him to claim any contribution from the property of the society in respect of any fine paid by him or conviction by a criminal court. Rule 40 states that every member of the society may be sued or prosecuted by the society for any loss or damage caused to the society or its property or for anything done by him detrimental to the interests of the society.

(vii) Members of the Society, as mentioned in detail while explaining the scheme of DRDA's and even as per the Rules of District Rural Development Agency, Aurangabad, consists of near about 23 members including the officials, representatives of various banks, NGO's, various departments including Planning Department. The governing body of the society consists of (1) Collector, Aurangabad District, Aurangabad – Chairman, (2) Chief Executive Officer, Zilla Parishad, Aurangabad – Vice-Chairman, (3) Director of Agriculture or his nominee – Superintending Agriculture Officer, Aurangabad – Member, (4) Chairman of Agriculture Committee of the Zilla Parishad, Aurangabad – Member, (5) Director, Maharashtra State Cooperative Land Development Bank Ltd., Aurangabad or his representative – Member, (6) Chairman, Aurangabad District Central Cooperative Bank Ltd., Aurangabad – Member, (7) Representative of

Govt., of India – Permanent Invitee, (8) Agricultural Development Officer, Zilla Parishad, Aurangabad – Member, (9) District Deputy Registrar of Cooperative Societies, Aurangabad – Member, (10) District Animal Husbandry Officer, Zilla Parishad, Aurangabad – Member, (11) Two non-officials to be nominated by the State Government – Members, (12) A representative of the Scheduled Castes – Special Invitee, (13) A representative of the Scheduled Tribes – Special Invitee, (14) A Lady Member – Special Invitee, (15) Project Officer, D.R.D.A., Aurangabad – Member Secretary, (16) District Planning Officer, Aurangabad – Member and (17) Any other officer/member of the Society as Chairman may desire.

19. It is thus clear that the DRDA has a separate legal existence. The DRDAs enjoy certain degree of autonomy, with freedom to decide themselves the questions of policy affecting the area administered by them. Though the autonomy may not be complete and the degree of dependence may vary considerably but an appreciable measure of autonomy is in existence. It has all the powers to raise funds for the furtherance of the activities and fulfillment of the objectives. This is in addition to the moneys provided by the Government. So far as DRDA is concerned, the essential element is that the control or management of the fund vests in the governing body of the DRDA. It satisfies the requisite criteria for

being designated as a local authority. The Panchayat Raj system and the DRDA work in a local area and in a local backdrop and set up. It operates in a defined area. Its office bearers are free to take their own policy decisions. It performs the Government function for eradicating poverty in the rural area. It fulfills the parameters and the tests laid down by the Supreme Court in the case of ***Union of India and Others vs Shri R. C. Jain and Others*** (supra).

20. Section 242(D) of the Zilla Parishads and Panchayat Samitis Act, 1961 (for short, “Act of 1961”) reads as under :

> "242D. Transfer of certain employees of District Rural Development Agency to Zilla Parishad - (1) On and after the commencement of the Bombay Village Panchayats and the Maharashtra Zilla Parishads and Panchayat Samitis (Second Amendment) Act, 2000, the State Government may, notwithstanding anything contained in any provisions of this Act or in any other law for the time being in force, direct, from time to time, that the services of the Class III and Class IV employees of the District Rural Development Agency (hereinafter in this section referred to as "the Development Agency"), who have been recruited directly by the Development Agency, shall stand transferred to the concerned Zilla Parishad against the existing posts in the appropriate cadres on the establishment of that Zilla Parishad from such date as may be specified by the State Government (hereinafter in

this section referred to as "the specified date") and these employees shall on that date (which may be different for different employees), become the employees of the concerned Zilla Parishad.

(2) Every employee of the Development Agency in respect of whom the direction is issued under sub-section (1) shall, from the specified date, become an employee of the concerned Zilla Parishad, against the existing post in the appropriate cadres on the establishment of that Zilla Parishad with effect from the specified date and the terms and conditions of service in respect of pay, allowances, leave, transfer, retirement, pension, provident fund and other service conditions of such employees shall be regulated by the rules and orders which regulate the conditions of service of the members of the appropriate cadres of the Zilla Parishad services.

(3) Any employee, so transferred to a Zilla Parishad shall be treated as the junior most in the appropriate cadre of that Zilla Parishad service, from the specified date.

(4) Any employee so transferred shall hold his office under the concerned Zilla Parishad by the same tenure, at the same remuneration and upon the same other conditions of service and with the same rights and privileges as he would have held on the specified date if this section had not come into force. Any service rendered by him under the Development Agency shall be deemed to be service rendered under the concerned Zilla

> Parishad for the purposes of pension and gratuity only and not for the purpose of seniority in the appropriate cadre of the Zilla Parishad. He shall continue to serve under the concerned Zilla Parishad until his employment under that Zilla Parishad is duly terminated or his remuneration or other conditions of service are duly revised or altered by the Zilla Parishad in pursuance of law which for the time being governs his conditions of service :
>
> Provided that........
> (5) …...
> (6) …...

21. In the instant case, the petitioner was working as a Clerk under DRDA in Mini ITI Center. In terms of the provisions of Section 242D of the Act of 1961, such employees, though on contract basis, can be accommodated as Zilla Parishad employees. Admittedly, the petitioner is working as a Clerk since 19.01.1999. Thus, considering the length of service and in terms of the provisions of Section 242D of the Act of 1961, if a person like the petitioner can be accommodated in the employment of Zilla Parishad, I am not inclined to consider that the petitioner has been engaged on contract basis and as such, he is not an employee of DRDA in its strict sense. In terms of Section 14(1)(i) of the Act of 1958, the petitioner, being employed as a Clerk in the Mini ITI Center of DRDA, is rightly held to

have incurred disqualification from continuing as member of the Grampanchayat by the authorities below. I find no fault in the orders impugned in this Writ Petition. Hence the following order:

O R D E R

The writ petition is hereby dismissed. No costs.

(V. K. JADHAV, J.)

vre/