

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13642 OF 2018

LAXMIBAI PRALHAD HATKAR
VERSUS
THE COLLECTOR, NANDED AND OTHERS

...
Advocate for Petitioner : Mr. S.V. Kurundkar h/f Mr. M.D. Narwadkar
AGP for Respondents: Mrs. Vaishali Patil-Jadhav
Advocate for Respondents : Mr. S.J. Salunke
.....

CORAM : N. M. JAMDAR, J.
DATED : 10 DECEMBER 2018

ORAL ORDER:-

1. By this petition, the petitioner has challenged the orders passed by respondent No.1 dated 9 August 2018 and respondent No.2 dated 19 November 2018. As a consequence of the impugned orders, the petitioner is disqualified under Section 14B of the Maharashtra Village Panchayats Act, 1958 for non submission of the accounts of election expenses within the prescribed period.

2. The elections to the Gram Panchayat Mugat, Tq. Mudkhed, district Nanded were held in the year 2015. Results were declared on 4 November 2015. The petitioner was elected as a member of the Village Panchayat. The Tahsildar, Mudkhed brought to the notice of the Collector that the petitioner and others did not submit the accounts of their election expenses within the prescribed period.

At the time of hearing before the Collector, the petitioner remained present and submitted her written say on 19 June 2018 stating that there was delay of 15 days in submitting the expenses because she was unwell and the delay of 15 days be condoned. The Collector, by the order dated 9 August 2018, held that the petitioner was disqualified. Thereafter, the petitioner filed an appeal before the Divisional Commissioner, Aurangabad. The appeal was dismissed by the Additional Divisional Commissioner by the order dated 19 November, 2018.

3. In view of the mandate of Section 14B of the Maharashtra Village Panchayats Act, the petitioner, at the time of submission of nomination form, as per the instructions issued by the Election Commission, has given an undertaking that the election expenses would be submitted within 30 days and a receipt thereof will be produced. She has also given an undertaking that she is aware that if within the period of 30 days the expenses are not given, then she would stand disqualified.

4. In view of the admitted position that the accounts were not submitted in time, the question that arises is whether the petitioner had given cogent explanation for the lapse. The only reason that is given is of illness of the petitioner relying on a medical certificate. This reason has not been accepted by the authorities.

5. The learned counsel for the petitioner has tendered a copy of

medical certificate on which petitioner had relied upon. The same is taken on record and marked "X" for identification. This document has no particulars whatsoever, such as name, diagnosis, date and reference number etc. There is nothing mentioned. This certificate issued by a private hospital bears only a stamp of the doctor. It is stated that the petitioner was suffering from hypertension, diabetes and was advised bed rest. This document, on the face of it, cannot be relied upon. If the authorities have not accepted such a document, there is no error in the view taken by them.

6. The Legislature has incorporated Section 14B to check certain malpractices. This stipulation is brought in to bring in an accountability in the election process. The provision however permits the candidate to give an explanation if there is a delay but looking at the object of the provision, unless cogent reason exists for deviation from this stipulation, it must be adhered to. A pedantic approach to accept any explanation without checking its veracity must be avoided

7. The learned counsel for the petitioner sought to contend that six persons were proceeded with together before the Collector and the proceedings should have been conducted independently. Other five candidates are not before this court in this petition. As far as the petitioner is concerned, the petitioner had given a written say admitting the lapse and justifying the same by producing a medical certificate.

8. The learned counsel then submitted that as per the notification issued by the Election Commission, the proceeding for disqualification on this count has to be taken within three months and in the present case, the proceedings have been initiated after two years. There is no merit in this contention. In fact, the petitioner is benefited by remaining in the office for two years. The learned counsel then submitted that the Additional Commissioner had no authority to decide the appeal against the petitioner. However, the appeal was moved by the petitioner. Once it is clearly established from the position on record that the petitioner stands disqualified, then the outcome will not change even assuming this argument is accepted. Learned counsel then sought to question the locus of the respondent No.3 on the ground that he could not have been permitted to intervene. The question is whether the petitioner is entitled to any relief. In view of the aforesaid position that the petitioner stands disqualified on the basis of the record itself, even assuming the reply and the participation of respondent No.3 is kept aside, there will be no difference to the result of this petition. In these circumstances, no interference is warranted. Writ petition is accordingly rejected.

(N. M. JAMDAR, J.)

rlj/