

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3974 OF 2018

Sou.Kesharbai Dattatrey Bansode

..... Petitioner

VERSUS

The State of Maharashtra & Ors.

..... Respondents

Mr.Nagraj S.Shinde for the Petitioner.

Mr.S.H.Kankal, A.G.P. for the State – Respondent nos. 1, 3 to 5.

CORAM : R.D. DHANUKA, J.

DATE : 4th MAY, 2018

P.C.

Learned counsel appearing for the petitioner states that all the respondents are served. Statement is accepted.

2. Mr.Kankal, learned A.G.P. waives service for the respondent nos. 1, 3 to 5. Except respondent nos. 1, 3 to 5, all respondents are absent.

3. By this petition, the petitioner has impugned the order dated 30th April, 2016 passed by the respondent no.4 and also the order dated 3rd March,2018 passed by the respondent no.3. The petitioner was disqualified under section 14B of the Maharashtra Village Panchayat Act, 1958 on the ground that the petitioner had failed to file statement of election expenses within the time prescribed. It is the case of the petitioner that the petitioner had submitted a statement of election expenses belatedly and there was delay of about 49 days in filing the statement of election expenses. The learned collector however did not give an opportunity to apply for condonation of delay in filing the

statement of election expenses and to cure the said defect.

4. Both the parties however proceeded on the premise that the petitioner has not filed the statement of election expenses within the time prescribed under the provisions of the Maharashtra Village Panchayat Act, 1958.

5. Mr.Kankal, learned A.G.P. for the respondent nos. 1, 3 to 5 states that the petitioner did not file statement of election expenses within the time prescribed and also did not apply for condonation of delay in filing the statement of election expenses before the authority and thus the impugned order passed by the authority cannot be impugned by this court in this writ petition.

6. In these circumstances, I am of the view that the petitioner shall be given an opportunity to file an application for condonation of delay in filing statement of election expenses under section 14B (2) of the Maharashtra Village Panchayat Act, 1958.

7. I, therefore, pass the following order :-

(a) The impugned order dated 30th April, 2016 passed by the respondent no.4 and also the order dated 3rd March,2018 passed by the respondent no.3 are quashed and set aside.

(b) The petitioner would be at liberty to file an application for condonation of delay in filing statement of election expenses.

(c) The respondent no.4 is directed to reconsider the case of the petitioner and to reconsider the application for condonation of delay and shall pass a fresh order after considering the application for condonation of delay and after considering the provisions of section section 14B (2) of the Maharashtra Village Panchayat Act, 1958.

(d) In view of the aforesaid order, the respondent no.2, 5 and 6 shall not conduct the election for the post held by the petitioner proposed to be held on 7th May,2018.

(e) The learned collector shall pass a fresh order within eight weeks from the date of hearing.

(f) The petitioner is directed to appear before the learned District Collector, Solapur on 11th June,2018 at 11.00 a.m.

(g) The petitioner is directed to convey this order to the other respondents immediately.

8. Writ petition is disposed of in the aforesaid terms. No order as to costs.

9. The parties as well as the authorities to act on the authenticated copy of this order.

[R.D. DHANUKA, J.]