

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4666 OF 2018

Yamuna Udhav Ravtale	Petitioner
versus	
The District Collector and others	Respondents

WITH
WRIT PETITION NO.4667 OF 2018

Sujata Sachin Kadam	Petitioner
versus	
The District Collector and others	Respondents

WITH
WRIT PETITION NO.4668 OF 2018

Abdul Vazir Shikalgar	Petitioner
versus	
The District Collector and others	Respondents

WITH
WRIT PETITION NO.4669 OF 2018

Pandurang Mahadev Honwar	Petitioner
versus	
The District Collector and others	Respondents

WITH
WRIT PETITION NO.4670 OF 2018

Shaila Sampatrao Honwar	Petitioner
versus	
The District Collector and others	Respondents

WITH
WRIT PETITION NO.4671 OF 2018

Bapurao Devappa Chavan	Petitioner
versus	

The District Collector and others

Respondents

Mr.Umesh R.Mankapure for petitioners.

Mr.S.B.Shetye for Election Officer.

Mr.Vikas Mali, AGP, for State.

CORAM : B.R.GAVAI AND
PRAKASH D. NAIK, JJ.

DATE : 19th April 2018

PC :

1. Rule. Rule made returnable forthwith. Heard the parties by consent.

2. Learned AGP as well as learned counsel for Election Commission have raised a preliminary objection regarding maintainability of the petitions on the ground of availability of alternate remedy. Undisputedly under sub-section 2 of Section 14(B) of Maharashtra Village Panchayat Act, 1958, the Election Commission had delegated the powers to the Divisional Commissioner, however, it appears that the office of Divisional Commissioner is vacant. In that view of the matter, we find that the petitioners are presently disqualified inasmuch as the authority before whom the remedy is available under sub-section 2 of Section 13(B) is not functional.

3. Apart from that, we find that the petitioners are being disqualified on technical ground. There is slight delay in submitting the returns of the expenditure incurred for the election. Undisputedly the petitioners have now submitted the expenditure returns.

4. We are of the considered view that a person who is elected, if is permitted to be disqualified on such hyper technical ground, it will not only cause prejudice to the petitioners alone, but also to the electorate which have elected the petitioners. In the result, all these petitions are allowed. The impugned order of disqualification in each of the petition is quashed and set aside. Rule is made absolute in terms of prayer clause (a).

(PRAKASH D. NAIK, J.)

(B.R.GAVAI, J.)

MST