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

WRIT PETITION NO.1856 OF 2019

Shivaji Sahebarao Waghmare,
Age: 35 years, Occu: Social work,
R/o. Wida, Tq. Kaij,
Dist. Beed

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Village Development Department,
Mantralaya, Mumbai-32
2. The District Collector,
Beed, Tq. and Dist. Beed
3. The Chief Executive Officer,
Zilla Parishad, Beed
4. The Block Development Officer,
Panchayat Samiti, Kaij,
Tq. Kaij, Dist. Beed
5. Child Development Project Officer,
Panchayat Samiti, Kaij,
Tq. Kaij, Dist. Beed
6. Supervisor (Anganwadi),
Circle Wida, Tq. Kaij, Dist. Beed
7. Sau. Sutar Seema Balbhim,
Age: Major, Occu: Service as
(Anganwadi Sevika),
R/o. Wida, Tq. Kaij, Dist. Beed

..RESPONDENTS

Mr H. P. Jadhav, Advocate for petitioner;
Mr V. S. Badakh, A.G.P. for respondent Nos.1 & 2;
Mr V. M. Chate, Advocate for respondent No.3

(2)

**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 11th February, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner.

2. Though in the present petition, the petitioner prays for a solitary prayer, namely, directions to decide representation dated 7th December, 2018 and though normally in such cases, we dispose of the petition with directions to decide the representation considering peculiar facts placed on record, we are not inclined to entertain the present petition.

3. The petitioner was elected as a Member of the Grampanchayat of Village Wida, Tq. Kaij, Dist. Beed. He submits that his occupation is social worker. Perusal of the documents placed on record show that one Mr Vijay Ramrao Patait approached the Collector, Beed, seeking disqualification of the present petitioner Mr Shivaji Waghmare as well as other member Shri. Ahmad Ali Sattar Kureshi. The applicant raised the ground that the petitioners are having three issues and all the three issues are born after the cut-off date, as such, these panchayat members incurred disqualification in view of the provisions of Sections 14 and 16 of Maharashtra Village Panchayats Act, 1958. The Collector, by assigning reasons, allowed the dispute and declared that the petitioner and the other respondent have

(3)

incurred disqualification. While arriving at the decision, the Collector referred to the documentary material including the school leaving certificates and entry in the survey report. This survey was conducted through one Anganwadi Sevika and the certificate issued by said Anganwadi Sevika. A copy of the said certificate is placed on record.

4. Being aggrieved by the order of the Collector, the petitioner preferred an appeal before the Divisional Commissioner and it is stated that there is an interim order passed in favour of the petitioner. The petitioner admits that the appeal is pending before the authority. The petitioner filed representation to the Chief Executive Officer. It is stated in the representation that the complainant who has raised dispute against the petitioner in connivance with the Anganwadi Sevika submitted fabricated documents. In the representation it is further submitted that there are contrary certificates issued by the Gramsevak and as per this certificate issued by Gramsevak, the petitioner is having only two issues and the family of the petitioner was residing outside the village in the report of the year 2009. It is also stated in the representation that said Anganwadi Sevika possesses no powers to issue birth certificates and the complainant and the Anganwadi Sevika are the neighbours. Then the petitioner raised allegation against the Anganwadi Sevika to submit that she is failing in her duties and then requested the Chief Executive Officer to conduct an enquiry and to pass appropriate orders including the order of suspension against the

(4)

petitioner.

5. Now this clearly shows that the petitioner approached the Chief Executive Officer only on the backdrop of an order passed by the Collector whereby the dispute was allowed and the petitioner was held disqualified. The petitioner challenged this order before the Divisional Commissioner and now is raising all the allegations against said Anganwadi Sevika. It may not be out of place to state that the appellate authority, who is seized of the matter, namely, an appeal would certainly decide the appeal on its merits. The appellate authority is expected to peruse all the documents and then form an opinion and then to arrive at a conclusion. The representation of the petitioner is certainly an act of purposeful intention as if the petitioner was only asking the authority to conduct an enquiry as one of the residents of the village. The petitioner is certainly having a grievance against Anganwadi Sevika and it is his allegation that Anganwadi Sevika being neighbour of the complainant who raised dispute against the petitioner before the Collector and in connivance submitted certain documents.

6. Now the representation with this particular background cannot be said to be a bona fide act apprising the authority of certain misdeeds of an employee of the Zilla Parishad. These being the typical backdrops behind the representation, we see no reason to entertain the petition and direct the authority i.e. respondent No.3 - Chief Executive Officer, Zilla Parishad to

(5)

decide the representation within stipulated period. If the representation is before the authority, namely, the Chief Executive Officer, Zilla Parishad, the said authority would take appropriate steps.

With these observations, the petition is dismissed.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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