

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1496 OF 2019
(Bajrang Manohar Sonavane and others Vs. The State of
Maharashtra and others)

Mr.N.L.Jadhav, Advocate for the petitioners.

Mr.A.B.Girase, Government Pleader and Mr.S.R.Yadav, AGP for
respondent Nos. 1 to 3 and 10.

Mr.V.D.Salunke, Advocate for respondent Nos.4 to 7 and 9.

Mr.G.K.Naik Thigle, Advocate for respondent No.8.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 22/07/2019

PER COURT :

1. I have briefly heard the learned Advocates for the respective
sides and the learned Government Pleader on behalf of respondent
Nos. 1,2 and 3.

2. I have been apprised of the petitioners having moved this Court
at it's Principal Seat in Writ Petition Stamp No.15907/2018 and the
order passed by this Court at Mumbai on 13/06/2018. I have also
perused the order dated 17/09/2018 passed by this Court at
Mumbai. Finally, it is brought to my notice that this Court at
Mumbai dealt with the review petition No.34389/2018 filed by
respondent Nos. 4 to 7 and 9. This Court delivered an order on

21/12/2018 concluding that this petition was wrongly filed at the Principal Seat. The Principal Seat had no jurisdiction to entertain and adjudicate upon the subject matter of this petition and therefore the order dated 13/06/2018 was recalled. Nevertheless, the said order was continued for a period of about 3 weeks and the matter was transferred to Aurangabad.

3. The learned Advocate Mr.Salunke appearing on behalf of respondent Nos. 4 to 7 and 9 submits that this Court (Coram : S.P.Deshmukh,J.) has passed an order on 01/02/2019 mechanically continuing the relief though the Principal Seat concluded that it had no jurisdiction to deal with this petition and had recalled its order dated 13/06/2018.

4. Mr.Thigle, the learned Advocate points out that in another petition preferred by these petitioners bearing No.14213/2017, these petitioners had attempted to indulge in forum shopping by making an unusual request before this Court (Coram : V.K.Jadhav, J.) on 07/02/2018 that the said Court should not hear the petition.

5. The learned Advocates for the respective sides submit that the impugned order dated 19/05/2018 passed by the Hon'ble Minister

granting interim protection to the disqualified members, was passed in the proceeding bearing No.ZPA-2017/PRA.KRA.221/P.R.1 and the said proceedings are still pending before the Hon'ble Minister.

6. In my view, since an interlocutory order is subject matter of this petition and considering the assignment of this Court, the likelihood of taking up this matter for final hearing at admission stage is bleak. It would be appropriate to request the Hon'ble Minister to decide the said proceedings in accordance with a time frame that this court can suggest.

7. The learned Advocates appearing on behalf of the respondents, who are disqualified by the order of the District Collector, submit that the impugned order be continued and the modified order of this Court, though continuing the said protection with certain conditions, need not be continued.

8. Issue before the Hon'ble Minister is as regards the appeal filed by the disqualified elected members. The blanket protection granted by the Hon'ble Minister has already been modified by this Court by virtue of the earlier orders. In any case, the disqualified members are permitted to attend the meetings of the Zilla Parishad, but are not

permitted to vote on any subject, if it calls for a voting and they are not held eligible to claim allowances as are admissible to elected representatives.

9. I find that this Court has, on the one hand, protected the disqualified members since the vacating of the protection would result in the declaration of a vacancy and consequential elections to the said posts and on the other hand, they are directed not to vote on any subject which may call for a voting and are not entitled to earn their allowances. This order seems to be equitable. I deem it appropriate to call upon the Hon'ble Minister to deliver his final order in the pending appeal on 23/08/2019. The learned Advocates for the respective sides inform that the appeal is now posted before the Hon'ble Minister on 02/08/2019 at 11.30 a.m.

10. In view of the above, this petition is disposed off. The protection granted to the disqualified members by the earlier orders of this Court would continue till 23/08/2019. All the litigating sides are before this Court and are aware of the date of hearing before the Hon'ble Minister. Hence, all the litigating sides would submit their written notes of submissions alongwith case law, if any, on 02/08/2019 before the Hon'ble Minister. Assistance of legal

practitioners / advocates is permitted. In the event, the hearing is not completed on 02/08/2019, the matter would stand overnight part heard before the Hon'ble Minister and the same would be concluded on 03/08/2019 to enable the Hon'ble Minister to close the matter for delivering his order.

11. The Hon'ble Minister would then post the matter on 23/08/2019 at 12.00 noon. All the litigating sides shall be obliged to remain present on that date before the Hon'ble Minister, who shall then pronounce his order and keep copies of his order ready so as to be delivered to the litigating sides for further action, if any. The Hon'ble Minister shall note that the orders passed by this Court at the Principal Seat at Mumbai and consequentially at Aurangabad have been passed purely on equities and no opinion is expressed by this Court on the merits of this matter. The Hon'ble Minister would decide the appeal on its own merits.

(Ravindra V.Ghuge, J.)