

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

WRIT PETITION NO.1550 OF 2019

**SUNITA NANA BHILL
VERSUS
SANGRAM GOVINDRAV PATIL AND OTHERS**

WITH

WRIT PETITION NO.1551 OF 2019

**SHOBHABAI NARAYAN SHINDE
VERSUS
SANGRAM GOVINDRAV PATIL AND OTHERS**

Mr.P.D. Bachate, Advocate for the petitioners.

Mr.G.R. Syed with Mr. Pawan B. Pawar, Advocate for
respondent No.1.

Mr.S.S. Dande, AGP for respondent/State.

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

DATED : 04.02.2019

P.C. :-

1. Learned Counsel Mr.Bachate appearing for the petitioners submits that in peculiar circumstances, the petitioners are before this Court with limited prayer of protection. Petitioner - Mrs. Sunita Nana Bhill contested election for the Grampanchayat Kusumba, Tal. &

Dist. Dhule and was elected unopposed initially in the year 2013 and even in the elections in the year 2018. Insofar as petitioner Shobhabai Shinde is concerned, she was elected unopposed in the year 2013 as a Member of Panchayat and in the year 2018 petitioner Shobhabai was elected as Sarpanch. Copies of election result dated 29.09.2018 are placed on record at Exh. "D" in both these petitions. The submission of Mr. Bachate is first meeting for election of Sarpanch took place in the year 2014 in Writ Petition No.1550 of 2019, as such the term of the petitioner would start from 08.02.2014 and would conclude on 07.02.2019.

2. It may not be necessary for us to refer to these aspect in detail. The core issue in the present matters is in respect of objection raised at the instance of respondent No.1 by way of dispute before the Collector, Dhule. It was submitted by respondent No.1 before the Collector that the petitioner in Writ Petition No.1550 of 2019 — Mrs. Sunita Nana Bhill failed to submit the

expenditure account within stipulated period and this failure leads to incurring disqualification under section 14 and 14(B) of the Mumbai Village Panchayats Act, 1958. Similarly, in case of petitioner Sunita, it was dispute No.10 of 2019 and in case of petitioner – Shobhabai it was dispute No.11 of 2019. Learned Counsel Mr. Bachate by inviting our attention to the Roznama submitted that the dispute was allowed on 18.01.2019. Learned Counsel Mr. Bachate by inviting our attention to Roznama submitted that the Collector, Dhule scheduled hearing on day to day basis and the petitioners were called upon to submit their say in shortest possible time. Learned Counsel submitted that the petitioner sought some time on 25.01.2019 and as last opportunity time was granted to the petitioners till 28.01.2019. Learned Counsel then submitted that the petitioners submitted say before the Collector on 28.01.2019. It is further submission of Mr. Bachate, learned Counsel that the notice is issued for election of Upsarpanch on 01.02.2019 and the scheduled date for the first meeting of the Panchayat to elect

Upsarpanch is 07.02.2019. Learned Counsel then submitted that undue haste of the presiding officer causes apprehension in the minds of the petitioners that the authority is bent upon to pass order without considering the submissions of the petitioners or without considering merits of the dispute. It was also submitted by Mr. Bachate that respondent No.1 selected opportune time to raise dispute after long five years and the Presiding Officer without considering this delay, is in haste to decide the proceedings. On the contrary, it was submitted by the learned Counsel appearing for respondent No.1 that the petitioner is interested in prolonging the dispute and as the meeting is scheduled on 07.02.2019, if the proceeding is delayed after 07.02.2019, the dispute would be futile exercise. Learned Counsel Mr. Bachate submitted that the petitioners are not shy of coming before the Collector and the decision to be passed by the Presiding Officer i.e. the Collector but the petitioners are apprehending that if no protection is granted to the petitioners, then the petitioners would be left

remedyless as there is no other appellate remedy and the only remedy is to approach this Court. Learned Counsel Mr. Bachate then submitted that in an identical circumstances, this Court granted such protection though these masters were under the Co-operative Societies Act. Learned Counsel thus invited our attention to the copies of orders placed on record. Same are taken on record and marked "X" for identification.

3. With the assistance of learned Counsel, we have gone through the provisions and we find that section 14(B)(2) provides power to the State Election Commission to remove any disqualification under sub-section (1) or reduce period of such disqualification. Thus, either the State Election Commission exercising its powers by itself or delegatee to whom the powers are delegated by the election commission, is at liberty to pass such orders by recording reasons.

4. Considering all these aspects, we are of the

opinion that the learned Counsel for the petitioners made out case for protection. It is not in dispute that the parties are before the Collector. The Collector i.e. respondent No.4 is in the process of hearing of the proceedings and is at concluding stage.

5. Thus, we direct respondent No.4 – Collector to pass appropriate orders, needless to state, on merits on or before 05.02.2019. If the order passed by the Collector is adverse to the petitioners, the Collector not to give effect to the order for 15 days from the date of passing of order i.e. from 05.02.2019, as the petitioners are protected by us. We further make it clear that though we have protected the petitioners and by this protection the petitioners would participate in the meeting scheduled on 07.02.2019, the participation of the petitioners in that meeting would be subject to final outcome of the proceeding, which would be undertaken by the petitioners in view of protection granted to them by this Court.

6. With these directions and observations the writ petitions are disposed of.

[S.M.GAVHANE,J.]

[PRASANNA B. VARALE,J.]