

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

20 WRIT PETITION NO.4765 OF 2019

RAMESH MADHAV BOLE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Shri Chapalgaonkar S.G.

AGP for respondent nos.1 & 2: Shri S.D. Ghayal

CORAM: V.L. ACHLIYA, J.

DATE: 29.04.2019

PER COURT :

1] Learned counsel for the petitioner points out that the service is already waived by the learned AGP for the respondents and copies are supplied to the office of the Government Pleader. Learned AGP accepts that copies are received. In that view, no compliance is required to be made.

2] Learned counsel for the petitioner submits that the interim order is directed to remain in force till the appropriate authority decides the appeal preferred by the petitioner. In view of the elections notified for the

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Parliament and code of conduct enforced by the Election Commission, the appropriate authority could not hear and decide the appeal and same can be taken up for hearing only after elections.

3] In my view, the appropriate authority is not justified to postpone the hearing on account of operation of code of conduct. The exercise of statutory powers by an appropriate authority to decide an appeal has no nexus with appeasement of voters as well as it has no direct or indirect bearing upon the result of the elections. Under the guise of operation of code of conduct, the statutory authority vested with the powers to decide the matters in the capacity as a quasi-judicial authority can not refuse to discharge statutory obligation. In that view, the appropriate authority should not have postponed the hearing of the appeal referred for its consideration under the guise of operation of code of conduct.

4] Accordingly, the appropriate authority is directed to decide the appeal preferred by the petitioner as expeditiously as possible and preferably within four weeks from the date of this order. The interim order, if any operating, to remain in force till passing of order

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by the appropriate authority.

5] The petition is disposed of in above terms.

6] Learned AGP is directed to communicate the order to the appropriate authority.

(V.L. ACHLIYA, J.)