

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5092 OF 2019
WITH
WRIT PETITION NO. 10286 OF 2019

VIJAY VITTHALRAO SHETKAR
VERSUS
ANKITA KAILAS DESHMUKH AND OTHERS

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Advocate for Petitioner : Shri Katneshwarkar P.R.
h/f Shri Gadhe G.A.

Advocate for Respondent 1 : Shri Deshmukh R.S.
h/f Shri Hande A.D.

Advocate for Respondent 2 : Smt. Kshirsagar Y.M.
AGP for Respondents 3 & 4 : Shri Bhagat N.T.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: August 23, 2019

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PER COURT :-

1 In the first petition, this Court had passed an order on 24.6.2019, which reads as under:-

“ 1. Leave to add the Additional Divisional Commissioner, Aurangabad, as respondent No.4. The addition to be carried out forthwith.

2. The petitioner/original complainant is aggrieved by the order passed by the Additional Divisional Commissioner, Aurangabad, dated 29 th January, 2019, by which, the proceedings initiated by the petitioner seeking disqualification of respondent No.1 under Section 40 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, has been partly allowed and, instead of disqualifying respondent No.1, a

direction is issued to the District Collector, Nanded, to submit a report within a month.

3. *Issue notice to the respondents, returnable on 26 th July, 2019.*

4. *The learned Asstt. Govt. pleader waives service for respondents No.3 and 4.”*

2 The petitioner in the first petition is respondent No.5 in the second petition. The petitioner in the second petition is respondent No.1 in the first petition. All the parties in these two matters are before this Court in view of service of court notice in the first petition.

3 The contesting parties in these two petitions are the petitioners in these two petitions. The learned AGP has strenuously defended the impugned order passed by the Additional Divisional Commissioner remanding the matter to the District Collector for conducting an enquiry in a period of one month. With this direction, he has closed the file before him.

4 Both the petitioners submit that the impugned order dated 29.1.2019, be quashed and set aside and the appeal filed by the petitioner in the first petition, namely, Vijay, should be decided on it's own merits.

5 In view of the above, the impugned order is quashed and set aside by the consent of these petitioners. Both these petitions are partly allowed to this extent.

6 Both the petitioners shall appear before the Additional Divisional Commissioner, Aurangabad on 6.9.2019 at 12.00 NN. Formal notices need not be issued. The litigating sides shall abide by the dates of hearing which may be granted by the said authority. All the contentions of the litigating sides are kept open, including the objections raised by the petitioner in the second petition, namely, Sow. Ankita.

7 The competent authority shall decide the appeal on it's merits and would also consider the objections raised by Sow. Ankita. The said authority shall pass a reasoned order considering all the contentions and objections of the parties on/or before 15.11.2019.

(RAVINDRA V. GHUGE, J.)

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