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

WRIT PETITION NO.10316 OF 2018

Siddhu Sultan Shaikh
Age: 52 Yrs., occu. Agril.
R/o Savargaon, Tq. Kannad,
District Aurangabad. = **PETITIONER**

VERSUS

1. The State of Maharashtra
Through its Principal Secretary,
Rural Development Department,
Mantralaya, Mumbai.
2. The Additional Divisional
Commissioner, Aurangabad.
3. The District Collector,
Aurangabad.
4. The Village Development Officer,
Grampanchayat, Savargaon,
Tq. Kannad, Dist. Aurangabad. = **RESPONDENTS**

Mr.SS Thombre,Advocate for Petitioner;
Mr.AB Chate,AGP for Respondent Nos. 1 to 3.
Respondent No.4 served.

CORAM : P.R.BORA, J.
DATE : 9th July, 2019

ORAL JUDGMENT

1. Order dated 23rd February, 2016 passed by Collector, Aurangabad (Respondent No.3 herein) and order dated 31st May, 2018 passed by Additional Divisional Commissioner (Respondent No.2) are challenged in the present writ petition.

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2. Petitioner was elected in general elections held in the year 2015 as a Member of Gram Panchayat, Savargaon and subsequently was also elected as Sarpanch of the said Gram Panchayat. Vide order dated 23rd February, 2016, Respondent No.3-Collector has disqualified the petitioner from holding the post of Member of the Gram Panchayat and in turn, Sarpanch of the Grampanchayat on account of non-submission of election expenses within a given period. Aggrieved by the disqualification, the petitioner had filed an appeal before the Divisional Commissioner, Aurangabad, however, the same was dismissed by the Commissioner.

3. When the present petition was taken up for hearing, learned counsel appearing for the petitioner, tendered across the Bar a copy of order dated April 3, 2019 passed by this Court (Coram: Ravindra V.Ghuge,J.) in Writ Petition Nos. 10317/2018 with WP No.10494/2018. The learned counsel submitted that the facts involved in the present petition and the facts, which were involved in the aforesaid writ petitions, are similar and

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the petitioners in the said writ petitions were also disqualified by Collector, Aurangabad, vide the same order dated 23rd February, 2016 for the same reason of non-submission of election expenses within the stipulated period. The learned counsel submitted that a common order was passed by Collector, Aurangabad on 23rd February, 2016, thereby disqualifying 1212 members of various Gram panchayats in Aurangabad district.

4. It is the case of the present petitioner that he had submitted the election expenses to the Returning Officer on 4th September, 2015. It is his further contention that after having come to know that the election expenses were to be furnished with Tahsildar, the same were also submitted to the Tahsildar on 12th October, 2015. The learned counsel further submitted that the results of the elections were declared on 6th August, 2015. The members, who contested the elections, were under obligation to furnish the election expenses within one month from the said date, i.e. on or before 6th September, 2015. The learned counsel further submitted that the present

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petitioner had already submitted the election expenses to the Returning Officer on 4th September, 2015 and thereafter submitted to the competent authority on 12th October, 2015. The learned counsel submitted that the Collector, without appreciating the reply/explanation submitted by the present petitioner and without applying mind to the explanation so submitted, has arbitrarily disqualified the petitioner from holding the post of member of the Gram Panchayat. The learned counsel further submitted that no opportunity was given to the petitioner as well as to others alike the petitioner to put-forth their case and a common order came to be passed in more than 1200 cases, disqualifying them to be members of the respective Gram Panchayats. The learned counsel submitted that there was no *malafides* or any ill-intention in not submitting the election expenses. The learned counsel submitted that while deciding Writ Petition No.10317/2018 and WP No.10494/2018, this Court (Coram: Ravindra V.Ghuge,J.) has considered the objections, which were similar to the objections raised in the present petition and have set aside the order passed by the Collector, Aurangabad.

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5. Learned AGP Shri Chate does not dispute correctness of the facts, as are stated by the learned counsel for the petitioner. No record is produced on behalf of the respondents, evidencing that opportunity of personal hearing was given to the present petitioner. In the impugned order, nothing is mentioned as to on what ground or for what reasons, the explanation submitted by the present petitioner was not accepted by Collector, Aurangabad. This Court in the order passed in WP No.10317/2018 (cited supra), has condoned the delay, which had occurred by the petitioners therein in submitting the election expenses. In the present matter, it is the case of the petitioner that, in fact, there was no delay on the part of the petitioner in submitting the election expenses, but the same were submitted to the Returning Officer. Even if it is assumed that the election expenses submitted by the petitioner on 12th October, 2015, were belatedly submitted, the delay caused in submitting the election expenses, is of about 36 days. The delay of similar period has been condoned by this court in the aforesaid two writ petitions.

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6. In view of the fact that the present petitioner stands at par with the petitioners in WP Nos.10317/2018 and 10494/2018 and so also was disqualified vide the same order dated 23rd February, 2016, there seems no reason to take any contrary view than taken by this court in aforesaid two writ petitions. In the circumstances, adopting the same reasons assigned in the order passed in the aforesaid two writ petitions, I am inclined to allow the present petition with following order, -

ORDER

- i. Order dated 23rd February, 2016 passed by Respondent No.2 and order dated 31st May, 2018 passed by Respondent No.3 are quashed and set aside;
- ii. The petitioner shall stand reinstated as member of the Gram Panchayat for the remainder term, however he would not be entitled for any benefits or allowance, as member of the village panchayat, from the date of his disqualification by the District Collector, Aurangabad till the date of this order.

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iii. The writ petition is allowed in the aforesaid terms.

(P.R.BORA)
JUDGE

BDV