

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

912 WRIT PETITION NO.9850 OF 2019

TURABI ANSARKHAN PATHAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Ms. Dahat Monica R.
AGP for Respondent No.1:Mr.S.P. Tiwari
Advocate for Respondent No.3 :Mr. M.P. Irpatgire
Advocate for Respondents No.4 & 5 :Mr.A.N. Nagargoje

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CORAM : **RAVINDRA V. GHUGE, J.**

Date: August 8th, 2019

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PER COURT :-

1 This matter was heard for some time on 7.8.2019 and by the consent of the parties, the matter was posted today for further hearing and passing orders.

2 Respondents No.4 and 5 were disqualified by the President of Zilla Parishad, Parbhani, under section 40 of the Maharashtra Village Panchayat Act. The law mandates that, when an issue as regards absence of the members of the Panchayat, falling within the categories, set-out under section 40, arises, such an issue/question is referred to the President of the Zilla Parishad on an application made or the President can suo motu take-up the issue.

3 The concerned President of the Zilla Parishad has disqualified respondents No.4 and 5, by order dated 20.5.2019.

4 Both the above respondents approached the Additional Commissioner, Aurangabad, by preferring an appeal, which has

been allowed by the impugned order dated 30.7.2019. The order of the President, Zilla Parishad is set aside and the matter is remanded to the office of the President for a re-enquiry and hearing.

5 The issue raised before this Court is, as to whether the impugned order can be stayed and the petition can be heard finally, at a later stage or whether the parties would agree to go before the President, Zilla Parishad.

6 The learned counsel for the petitioners submits that, since the reinstatement of the respondents is not directed and there is every possibility of tampering of the records, permission should not be granted to the disqualified respondents to participate in the proceedings of the Grampanchayat.

7 The learned advocate for the disqualified respondents has opposed this petition. However, on instructions from the said respondents, the learned advocate submits that, they would keep themselves away from the Gram Panchayat, for a period of 30 days, provided the President, Zilla Parishad is directed to decide the proceeding within a period of 30 days, without seeking extension of time.

8 In view of the above, this petition is disposed off, with the following directions:-

- a) All the litigating sides would appear before the President, Zilla Parishad, Parbhani on 19.8.2019. No formal notices are necessary.

- b) All these litigating sides are permitted to address the President, Zilla Parishad in between 19.8.2019 and 23.8.2019 and submit their documents/evidence and written notes of submissions.
- c) After the presentation of the documents and oral/written submissions is concluded, the President shall close the file for delivering an order.
- d) The President shall endeavor to decide the said proceeding by delivering a reasoned order, considering the entire record presented by the litigating sides, before her, on 16.9.2019 and a copy of the order shall be kept ready to be delivered to the parties at 3 p.m..
- e) All these litigating sides are obliged to remain present in the office of the President, Zilla Parishad, Parbhani on 16.9.2019 at 3 p.m. for noting the pronouncement of the order.
- f) Until 16.9.2019, respondents No.4 and 5 shall keep themselves away from the affairs of the Gram Panchayat and shall not participate in any meeting, even though there may be a Gramsabha meeting or monthly meeting.
- g) The Upasarpanch shall officiate as Sarpanch.
- h) The President, Zilla Parishad shall not seek extension of time and shall ensure that, the matter is heard with great urgency, if required, on day today basis and that, the order is delivered at 3 p.m. on 16.9.2019.
- i) In the event, respondents No.4 and 5 succeed before the President, Zilla Parishad, in the said proceeding, they would be entitled for their allowances, for the period of their disqualification with retrospective effect, subject to further litigation in the matter.

(RAVINDRA V. GHUGE, J)