

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 12171 OF 2019

Bhaskar S/o. Kisanrao Raut Petitioner
Versus
The State of Maharashtra & Ors. Respondents

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Appearances :-

Shri. R. N. Dhorde, Sr. Counsel h/f. Shri. P. S. Dighe, Advocate for
the petitioner
Shri. P. S. Patil, AGP for respondents No. 1 to 5
Shri. K. J. Suryawanshi, Advocate for respondent No. 6

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AND

WRIT PETITION NO. 12261 OF 2019

Appasaheb Ramkrushna Patil Petitioner
Versus
The State of Maharashtra & Ors. Respondents

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Appearances :-

Shri. R. N. Dhorde, Sr. Counsel h/f. Shri. P. S. Dighe, Advocate for
the petitioner
Shri. P. S. Patil, AGP for respondents No. 1 to 5
Shri. K. J. Suryawanshi, Advocate for respondent No. 6

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CORAM : S. V. GANGAPURWALA

AND

ANIL S. KILOR, JJ.

DATE : 07TH OCTOBER, 2019

PER COURT:-

1. Shri. R. N. Dhorde, learned Senior Counsel for the
petitioner submits that, it is because of the non-supply of sugarcane

the action has been taken against the petitioner. The petitioners moved No-confidence Motion against the Chairman. Sequel to that, the action was taken against the petitioner. The same is based on absolutely erroneous facts. The petitioner has got a strong *prima facie* case. The respondent No. 1 did not even hear the petitioner till date though the appeal is filed and pending. There are no allegations of either misappropriation or misconduct against the petitioner. Till the appeal is decided on merits by respondent No. 1, the disqualification deserves to be stayed. The learned counsel relies on the judgment of the Division Bench of this Court in the case of *Shaikh Gulab Chandu Khatik vs. State of Maharashtra and others* reported in [1979 Mh.L.J. 167].

2. The learned Asst. Government Pleader, on instructions, submits that the stay application of the petitioner would be decided within one month from the date of the formation of the Government.

3. We have also heard Shri. K. J. Suryawanshi, learned counsel for the respondent-contesting party.

4. The matter is still pending with the respondent No. 1. No orders on merits are passed by respondent No. 1. It is submitted

that, in view of the ensuing elections, the matter is not taken up.

5. It would be inappropriate at this stage to observe anything on the merits of the matter and that would be preempting the decision of respondent no. 1.

6. It is for the respondent No. 1 to consider the matter on merits and decide the application for stay i.e. whether stay is to be granted to the disqualification.

7. Interest of justice would be sub-served if the post held by the petitioner is directed not to be filled in so that the irreversible situation is not created in case the stay is granted by respondent No.

1. We pass the following order.

ORDER

(a) Respondent No. 1 shall decide the stay application of the petitioner on its own merits within 15 days of the formation of the Government.

(b) Till the stay application of the petitioner is decided, the vacancy created upon the disqualification of the petitioner shall not

be filled in by any mode. We have directed such an interim arrangement only because the stay application is not heard by respondent No. 1, till date.

8. The writ petition is accordingly disposed of. No costs.

[ANIL S. KILOR]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde