

((1))

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

WRIT PETITION NO.13560 OF 2018

Pandurang s/o Kisan Khillare ... PETITIONER

VERSUS

The State of Maharashtra & ors. ... RESPONDENTS

.....
Shri C.S. Deshmukh, Advocate holding for
Shri R.P. Adgaonkar, Advocate for petitioner
Shri S.K. Tambe, AG..P. for State
Shri P.M. Hiwale, Advocate for respondent No.3
.....

WITH

WRIT PETITION NO.13561 OF 2018

Narayan s/o Ramrao Upare ... PETITIONER

VERSUS

The State of Maharashtra & ors. ... RESPONDENTS

.....
Shri C.S. Deshmukh, Advocate holding for
Shri R.P. Adgaonkar, Advocate for petitioner
Shri S.K. Tambe, AG..P. for State
Shri P.M. Hiwale, Advocate for respondent No.3
.....

CORAM : R.G. AVACHAT, J.

DATED : 21st September, 2019.

ORDER :

In both these Writ Petitions, the petitioners have
challenged the order passed by the Additional Collector,

disqualifying them to be the members of the Grampanchayat, and consequently to hold the office of Village Sarpanch. The order passed by the Additional Collector has been confirmed by the Additional Divisional Commissioner, in Appeal dated 30.8.2018, decided on 14.9.2018.

2. Heard learned counsel for the parties. Both the petitioners have been disqualified on the ground of their failure to submit Accounts of expenditure incurred by them for election within limitation of 30 days.

3. I have perused the impugned orders. The petitioners were to submit the Accounts of election expenditure by 7.11.2017. They, however, submitted the same on 8.1.2018 by Registered Post. There was two months delay in submitting the Accounts.

4. Both the petitioners had given inter-alia, medical grounds, contending that they were not keeping well and, therefore, could not submit the Accounts within a statutory time-frame.

5. Both the petitioners have placed reliance on the order

dated 17.10.2018 passed by learned Single Judge of this Court in Writ Petition No.11464/2018 with Writ Petition No.11600/2018 and 11617/2018. Reading of the impugned orders passed by the Additional Collector do indicate that, the Additional Collector did not consider whether the petitioners were really unable to furnish the Accounts of the election expenditure due to their ill-health or not keeping well. It is true that, the impugned orders record that the petitioners had participated in the Grampanchayat meeting, which fell on the date covered by the period of illness.

6. The learned Single Judge found from the impugned orders that, either of them has not considered or concluded that, medical certificates were false and the delay could not be condoned despite the explanations tendered.

7. I am of the view that, both the petitioners herein need to be given the same treatment as has been given to the petitioners in Writ Petition No.11464/2018. It was reported that, both these petitions were from the group of petitions decided on 17.10.2018, but could not be listed along with those petitions.

8. In view of the above, and particularly the decision dated 17.10.2018 in Writ Petition No.11464/2018, these petitions

((4))

are allowed. The impugned orders are quashed and set aside. The proceedings pertaining to these petitions stand restored to the office of the respondent No.1 – the Collector, Hingoli. The petitioners shall appear before the District Collector, Hingoli on 9th October 2019 by 12.00 noon. The respondent No.1 shall give the petitioners hearing and then passed necessary orders.

9. These petitioners shall not be reinstated as members of the Grampanchayats subject to the result of the litigation. However, the State Authorities would not declare their positions vacant in view of the pending decision of the District Collector.

(R.G. AVACHAT)
JUDGE

fmp/-