

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14081 OF 2019

Chhaya Baban Ashtekar

Petitioner

Versus

The State of Maharashtra
& others

Respondents

Mr. S.J. Salunke, Advocate for the petitioner.

Mr. P.M. Kulkarni, AGP for Respondent No. 1.

Mr. A.B. Kadethankar, Advocate for Respondent No. 2.

Mr. P.K. Deshmukh, Advocate holding for Mr. B.R. Sontakke Patil,
Advocate for Respondent No. 3.

CORAM : Ravindra V.Ghuge, J.

DATE : 21st November, 2019.

PER COURT :

1. I have briefly heard the learned Advocates for the petitioner and Respondents No. 2 and 3 and, the learned AGP on behalf of Respondent No. 1.

2. There is no dispute that the petitioner's appeal challenging her disqualification is pending before the Honourable Minister. The petitioner had earlier approached the learned Division Bench of this Court in Writ Petition No. 13478/2018 which was

disposed of by order dated 05.12.2018. It was specifically directed in the said order dated 05.12.2018 as under :

Heard. Learned counsel for the petitioner submits that petitioner's appeal against impugned Judgment and order dated 04-08-2018 in File No. 2017/MCM/Office-1/Kavi-1339, is pending before respondent No. 1.

2. We direct respondent No. 1 to decide the pending appeal filed by the petitioner, if already not decided, on its merit and in accordance with law, as expeditiously as possible, however, within a period of eight weeks from today.

3. With the above observations, petition stands disposed of.

4. In case elections are declared by the State Election Commission, in that case, liberty to the petitioner to approach this Court.

5. Parties to act upon authenticated copy of this order.

3. It is informed that the matter was heard and was at the stage of judgment before the Honourable Minister. However, before the decision could be announced, there were elections followed by imposition of the President's Rule.

4. The learned Advocate appearing on behalf of Respondent No. 2 points out an order passed by the learned Division Bench of

this Court dated 19.11.2019 passed in Writ Petition no. 13815/2019, based on similar set of facts. The matter has been referred to the Honourable Governor so as to issue directions for delegation of authority for deciding such pending matters in the light of the imposition of President's Rule in the State of Maharashtra.

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

A) The State Government shall initiate appropriate steps for seeking guidance from the Honourable Governor for delegation of powers to the competent Secretary of the concerned department to decide such pending matters.

B) After such delegation, the competent authority shall issue notices to all the litigating sides.

C) Since the application for interim relief filed by the petitioner in Appeal bearing No. MUN-4418/File No. 132/UD-15 is pending before the department of Urban Development, Respondent No. 2 - State Election Commission would refrain from announcing or publishing any election

program.

D) In the event, Respondent No. 2 desires to take steps for holding elections, it would be appropriate to approach the competent authority and seek permission to hold such election. Such an application shall be decided by the competent authority after hearing all the parties.

E) After the competent authority decides the application for interim relief, it would thereafter proceed to decide the appeal within a period of eight weeks.

F) If the parties consent, the appeal could be decided along with the application for interim relief within a period of eight weeks from the date of appearance of the parties.

G) All contentions of the litigating parties are kept open.

(Ravindra V.Ghuge, J.)