

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.14344 OF 2018
AASHA SHIVAJI WADHEKAR
VERSUS
THE ADDITIONAL DIVISIONAL COMMISSIONER AND OTHERS

WITH

WRIT PETITION NO.14345 OF 2018
DURGAPRASAD SHESHRAO KUSALKAR AND OTHERS
VERSUS
THE ADDITIONAL DIVISIONAL COMMISSIONER AND OTHERS

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Advocate for Petitioners : Shri Bagul D.S. h/f Shri Madan V.B.
AGP for Respondents 1 to 3 : Shri Munde S.W.
Advocate for Respondent 4 : Shri Bhapkar S.B. h/f Shri Kulkarni V.B.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 08, 2019

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PER COURT :-

1. This Court (Coram : R.G.Avachat, VJ) has heard the learned Advocates for the respective sides and has passed a detailed order on 24.12.2018.

2. Having heard the learned Advocates for the respective sides, I find that the order of disqualification of the petitioner, in the first petition, as a Sarpanch on account of failing to hold the requisite monthly meetings, has been stayed by the Additional Divisional Commissioner, by order dated 18.12.2018 in the appeal preferred by the petitioner / Sarpanch. In the meanwhile, the District Collector has

issued an order on 15.12.2018 to the Tahsildar, Jalna that he should proceed to conduct the elections for the post of Sarpanch, which had fallen vacant. Needless to state, once the order of disqualification of the petitioner has been stayed, the District Collector could not have issued directions to the Tahsildar to hold the elections for the post of Sarpanch.

3. Learned Advocates submit that the hearing on the appeal filed by the petitioner / Sarpanch is posted on 6.2.2019 before the first respondent. The said authority has granted the protection to the petitioner by the interlocutory order dated 18.12.2018, which has been assailed by the complainant in the second petition.

4. The contention of the petitioner in the second petition is that the Additional Divisional Commissioner does not have the jurisdiction to entertain the appeal preferred by the Sarpanch.

5. Considering the above and since this Court has directed the State not to proceed to hold the elections, by its order dated 24.12.2018, I find that the ends of justice would be met by directing the first respondent to decide the appeal preferred by the Sarpanch within a time frame.

6. In view of the above, the first petition filed by the Sarpanch is

allowed and the order of the District Collector dated 15.12.2018 is quashed and set aside. The first respondent shall now hear all the litigating sides on 6.2.2019 and shall close the proceedings for delivering an order on 20.2.2019. All the litigating sides would address the first respondent on their respective contentions on 6.2.2019. They are at liberty to enter their written notes of submissions on the same date and the proceedings shall not adjourn. The first respondent would close the matter for orders after hearing all the sides on 6.2.2019 and shall post the matter on 20.2.2019 at 11.00 am for pronouncing his order. Copies of the order shall be kept ready, so as to be supplied to the litigating sides on the same date. Needless to state, as all the contentions of the litigating sides are kept open, the petitioner in the second petition would be at liberty to canvass the point of jurisdiction, which would be considered by the first respondent along with all other issues.

7. The second writ petition is, therefore, disposed off.

(RAVINDRA V. GHUGE, J.)

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