

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6918 OF 2018

Shri. Mohommad Siddiqui Haji	}	
Mohd. Shafique Momin	}	Petitioner
versus		
The State of Maharashtra	}	
and Ors.	}	Respondents

Mr.Rohan Surve I/b. Mr.Somnath R.
Thengal for the petitioner.

Ms. Kirti Kulkarni-AGP for State.

Mr.N.R.Bubna for respondent nos. 2 to 4.

Mr.Rishin Mantri I/b. Mr.S.B.Shetye for
respondent no.5.

Mr.Gautam Jasraj Jain for respondent
no.7.

Mr.Atharva A.Dandekar I/b. Mr.Momin
Mohd. Farooque Nisar for respondent
no.8.

**CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.**

DATE :- MARCH 19, 2019

P.C. :-

1. Having heard both sides, we find that the issue whether the councillor of the Municipal Corporation of Bhivandi Nizampur City is disqualified or has disqualified himself will have to be decided by the competent authority i.e. a Judge of the Civil Court.

2. In the peculiar facts and circumstances of the case and without this order being treated as a precedent, the issue as to whether respondent no. 8 has disqualified himself shall now be referred by the Commissioner, namely, respondent no. 3 to the Judge of a Civil Court within the meaning of law. Beyond this, we are not directing anything nor have we held much less conclusively that respondent no. 8 is disqualified. The issue arising out of such a reference shall be decided exclusively by that competent authority and all contentions are kept open. The respondent no. 8 can raise the permissible contentions before the competent forum.

3. The writ petition is disposed of.

4. The reference shall be made to the competent court by the Commissioner within a period of two weeks from the date of communication of this order.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)