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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITIOIN NO.1817 OF 2018

1] M. Mukund Mahadev Patil,
2] Mrs. Sayabai Ramesh Chandanshive,
3] Mr. Nagnath Babu Giram,
4] Mr. Tanaji Pralhad Falke,
5] Mrs. Banu Sttar Mujawar,
6] Mr. Shashikant Govind Pappule,
7] Mrs. Sunita Devappa Kumhar,
8] Mrs. Sangeeta Mahadev Patil,
9] Mr. Mahadev Geena Chandanshive,
10] Mrs. Padmini Pandurang Gawade **…Petitioners**

Versus

1] The Divisional Commissioner of Pune
2] The Collector of Solapur,
3] Mr. Siddheshwar Pandurang Pawar
4] State of Maharashtra,
5] Sunder Ashok Patil,
6]] Sameer Allauddin Shaikh,
7]] Gajendra Shankar Waghmare,
8] Laxmi Vijaykumar Kore,
9] Poonam Vishnu Falke,
10] Ramesh Balbhim Chandshive
11] Chhaya Abhiman Sonawane,
12] Shekhar Pandurang Chormulay
13] Chandaani Babasaheb Gawde **...Respondents**

Mr. Shekhar Jagtap I/b Ansari Shahed Ali Inayat Ali for the Petitioners.
Ms. V.S. Nimbalkar, AGP for Respondent Nos.1,2 and 4.
Mr. Subhash V. Gutte for respondent Nos.3 and 5 to 13.

CORAM : A.S. GADKARI, J.

DATE : 1st July 2019.

P.C. :-

1] By the present petition under Article 227 of the Constitution of India, the petitioners have impugned, Order dated 27th July 2017 passed by the Divisional Commissioner, Pune Division, Pune, i.e. the respondent No.1, in Appeal No.25 of 2017 under Section 14-B of the Maharashtra Village Panchyats Act, 1959 (for short "the said Act"), thereby confirming the Order dated 3rd April 2017 passed by the Collector, Solapur, i.e. the respondent No.2, in Dispute Application No.56 of 2016.

2] Heard Shri. Jagtap, the learned counsel for the petitioners, Shri. Gutte, the learned counsel for the respondent Nos.3 and 5 to 13 and Ms. Nimbalkar, the learned AGP for the State. Perused record annexed to the petition.

3] The record discloses that, the petitioners are the elected members of the Grampanchayat Wagholi, Taluka Mohol, Disstrict Solapur. The election of the said grampanchayat was conducted in the year 2015 and the results were declared on 04/11/2015. In view of the mandate of the said Act and as per the directions issued by the State Election

Commision by its G.R. dated 15/10/2016, the petitioners were obliged to file a statement of accounts with regard to the expenses incurred by them in the said elections along with an affidavit stating therein that, they have not suppressed any expenses in that behalf from the Election Officer within a period of 30 days from the date of declaration of the elections. Thus, the petitioners were liable to file such a statement along with the said affidavit on or before 03/12/2015.

4] It is the contention of the respondent No.3 that, the petitioners after getting elected on 04/11/2015 did not submit account of expenses along with the said affidavit to the concerned Authorities i.e. the Election Officer within the stipulated period. In the premise the respondent No.3 filed Dispute Application bearing No.56 of 2016 before the Collector, Solapur under Section 14-B of the said Act.

It is the defence of the petitioners that, they submitted the statement of accounts pertaining to the election expenses within 30 days i.e. prior to 3.12.2015, therefore, the said provisions are not attracted to the present case.

The respondent No.2 by its Order dated 3rd April 2017 was pleased to allow the said application filed by the respondent No.3. The

respondent No.1 by its Order dated 27th July 2017 has rejected the appeal preferred by the petitioners. The said two Orders are impugned in the present petition.

5] Mr. Jagtap, the learned counsel for the petitioners submitted that, as a matter of fact, the petitioners have submitted their statement of accounts with respect to expenses incurred by them during the said elections to the Election Officer within the stipulated period. However, with fairness at command the learned counsel admitted that, the necessary affidavit in support of the same which is required as per the Government Resolution dated 15th October 2016 had not been filed by the petitioners. He submitted that, the said Government Resolution is directory in nature and the guidelines therein are not mandatory. He submitted that and non-compliance of it can at the most be considered as a lapse or irregularity in that behalf. He therefore submitted that the impugned Orders passed by both the Authorities below may be quashed and set aside by allowing the present petition.

6] The learned counsel for the respondent No.3 and the learned AGP supported the impugned Orders. The learned AGP submitted that, the directions issued in the aforesaid Government Resolution are

mandatory in nature, as the same was issued by the Election Commission under the provisions of Representation of Peoples Act. The learned AGP and the learned counsel for the respondent No.3 submitted that, the present petition has no merits and therefore, may be dismissed.

7] The record discloses that, the Appellate Authority in its impugned Judgment and Order dated 27th July 2017 has observed that, the petitioners have submitted statement of accounts to the Election Officer on 30/11/2015 and have produced acknowledgement in that behalf, however they have not submitted an affidavit which is necessary under the said Government Resolution. It is observed that, even in the appeal memo, the petitioners have admitted the fact that, the said affidavit remained to be filed at their end within the stipulated period.

It is thus clear and an admitted fact on record that, the petitioners have clearly failed clearly to file their affidavit, stating therein that, the expenses incurred by them and they have not suppressed any expenses in that behalf from the concerned Authorities within the stipulated period to the Election Officer and filed it much belatedly on 31/12/2016 i.e. after one year from the date of declaration of results of the elections.

8] As noted earlier, there are concurrent findings recorded by both the Authorities below.

The Constitution Bench of the Supreme Court in the case of Syed Yakoob Vs. K.S. Radhakrishnan & Ors., reported in AIR 1964 SC 477, while enumerating the nature and limits of the jurisdiction of the High Court in issuing a writ of certiorari has held that, the jurisdiction of the High Court to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an Appellate Court. This limitation necessarily means that the findings of fact reached by the inferior court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. That, an error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be.

In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on

no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. A finding of fact recorded by the Tribunal cannot, however, be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding.

9] The Supreme Court in the case of *Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil, reported in (2010) 8 SCC 329* has enumerated the principles in the exercise of High Court's jurisdiction under Article 227 of the Constitution of India. It is held that, the High Courts cannot, at the drop of a hat, in exercise of its power under Article 227 of the Constitution, interfere with the Orders of tribunals or courts interior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases, where an alternative statutory mode of redressal has been provided, that would also operate as a restrain on the exercise of this power by the High Court. That, the High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice

have been flouted.

It is further held that, in exercise of its power of superintendence, the High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words, the jurisdiction has to be very sparingly exercised. That, the power of interference under this Article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts subordinate to the High Court.

The afore-stated view expressed in the case of *Shalini S. Shetty (Supra)* has been further affirmed by the larger Bench of the Supreme Court in the case of *Radhey Shyam & Anr. Vs. Chhabi Nath and Ors. Reported in (2015) 5 SCC 423.*

10] The pleadings in the petition and arguments advanced by the learned counsel for the petitioners amounts to re-appreciation of the evidence on record. The Authorities below have exercised jurisdiction vested with them within the four corners of law and have not exceeded it. After perusing the record and in view of the ratio laid down by the

Honourable Supreme Court in the aforestated decisions, this Court is of the view that, both the Authorities below have not committed any error either in law or on facts while passing the impugned Orders.

Writ Petition being devoid of merits, is accordingly dismissed.

(A.S.GADKARI, J.)