

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1384 OF 2018

Pandharinath Devji Bhangare ... Petitioner

Versus

The State of Maharashtra & Ors. ... Respondents

Mr. Swapnil V. Walve for Petitioner.

Mr. S. D. Rayrikar, AGP for Respondent Nos.1 to 4.

CORAM : S. S. SHINDE, J.

DATE : MARCH 15, 2019.

P.C. :

. Heard. RULE.

2. Rule made returnable forthwith.

3. The present Petition takes exception to the order dated 15th September 2017 passed by the Additional Commissioner, Nashik Division, Nashik in Grampanchayat Appeal No. 548 of 2017.

4. It appears that the Petitioner is disqualifying to continue as a member of Grampanchayat and also as Up-sarpanch on the ground that he has more than two children on the date of filing nomination.

5. Being aggrieved by the order passed by the Additional Collector, Nashik in Grampanchayat Dispute No.1 of 2017 on 3rd April 2017, the Petitioner filed aforementioned Appeal before the Additional Collector, Nashik Division, Nashik. It appears that the said Appeal was dismissed on the ground of delay of three days in filing the Appeal.

6. The learned Counsel appearing for the Petitioner submits that the appellate authority reckoned the limitation from the date of passing of the order by the Additional Collector, however, the Petitioner was intimated by the office of the Additional Collector about the said order on 7th April 2017 and the Petitioner was in receipt of the order passed by the Additional Collector on 10th April 2017. The learned Counsel submits that there was no delay in filing Appeal.

7. The learned AGP appearing for the Respondent - State and the officials of the State submits that the Appellate Authority has rightly dismissed the Appeal, since there was delay in filing the Appeal. It is submitted that even the Petitioner has no case on merits.

8. Upon careful perusal of the reasons assigned in the impugned order it appears that there was delay in filing the Appeal. The explanation given by the Petitioner that he received the copy of the order passed by

the Additional Collector passed on 10th April 2017 appears to be plausible. By any stretch of imagination delay of three days in filing Appeal ought to have been condoned.

9. In that view of the matter, order passed by the Additional Collector, Nashik Division, Nashik is quashed and set-aside.

10. Rule is made absolute in terms of prayer clause – (a).

11. The Grampanchayat Appeal No. 548 of 2017 is restored to its original file before the Additional Commissioner, Nashik Division, Nashik.

12. The Petitioner to cause the appearance before the said Appellate Authority on 8th April 2019.

13. The Appellate Authority shall decide the Appeal as expeditiously as possible, however, within six months from the date of appearance of the Petitioner before the said Authority.

14. Writ Petition stands disposed of accordingly. No order as to costs.

(S. S. SHINDE, J.)