IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.6118 AND 5770 OF 2019

Jayashree Baba Niwate Taluka Chimur, Dist. Chandrapur and anr.
-vs-
The District Collector, Chandrapur and ors.
WITH
WRIT PETITION NO.6117 OF 2019

Tushar s/o Keshevrao Kale, Taluka Chimur, Dist. Chandrapur and anr.
-vs-
The District Collector, Chandrapur and ors.

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

Shri M. M. Sudame, Advocate for petitioners.
Shri A. V. Palshikar, Assistant Government Pleader for respondent No.1.
Shri S. P. Bhandarkar, Advocate for respondent No.2.
Shri M. I. Dhatrak, Advocate for respondent No.3.

CORAM : A.S.CHANDURKAR, J.
DATE : September 25, 2019

The order passed by the Collector on 23/08/2019 disqualifying the petitioners under provisions of Section 3(1) of the Maharashtra Local Authority Members Disqualification Act, 1986 (for short, the said Act) is under challenge in the present writ petition.

2. An objection is raised on behalf of the respondents to the maintainability of the writ petitions in view of availability of the statutory remedy by way of an appeal before the State Government under provisions of Section 7(3) of the said Act.

3. Though it is sought to be urged on behalf of the petitioners that despite availability of such remedy this Court should entertain the writ petition and adjudicate the challenge, after hearing the learned counsel for the parties for sometime, I do not find an exceptional case made out to entertain the writ petitions despite availability of the statutory remedy. Hence, I am inclined to permit the petitioners to avail the statutory remedy as provided.

4. Accordingly the petitioners are permitted to avail the remedy of filing an appeal under Section 7(3) of the said Act within period of ten days from today. If such appeals are filed within period of ten days from today, they shall be entertained on merits without going into the question of delay. Until the prayer for interim relief is considered by the appellate Authority, the vacancies created on account of disqualification of the petitioners shall not be filled in. Similarly if any notice for holding elections to the post of Vice-President is issued, the petitioners are at liberty to seek appropriate interim relief. All points are kept open for adjudication. If such appeals are filed, same be decided expeditiously in accordance with law.

All the writ petitions are disposed of accordingly with no order as to costs.

JUDGE

Asmita