

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 7171/2016

(PURANLAL BHAIYYAJI SHIVANKAR **VERSUS** ADDITIONAL COLLECTOR, GONDIA & OTHERS)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri B.M. Kharkate, counsel for petitioner.
 Shri V.A. Thakare, A.G.P. for R-1, 2 & 4.
 Shri U.K. Bisen, counsel for R-3.

CORAM : A.S. CHANDURKAR, J.

DATE : JULY 17, 2019.

The challenge raised in the present writ petition is to the order passed by the Additional Commissioner on 22.11.2016 thereby dismissing the appeal preferred by the petitioner under Section 16(2) of the Maharashtra Village Panchayats Act, 1959 (for short, 'the said Act') and confirming the order of disqualification under Section 14(B) of the said Act.

In the elections of the Gram Panchayat that were held in July-2015, the petitioner was elected as a Member of the Gram Panchayat. As per provisions of Section 14-B of the said Act, he was required to submit the statement of account of expenses within a period of thirty days from the declaration of results. As according to the respondent nos.1 and 2, the statement of account of expenses was not submitted, an order came to be passed disqualifying the petitioner from holding said Office for a period of five years. Being aggrieved, the petitioner filed an appeal under Section 16 of the said Act. The Additional Commissioner by recording a finding that in absence of any evidence that the statement of account of expenses was submitted dismissed the appeal. Being aggrieved, the present writ petition has been filed.

Shri B.M. Kharkate, learned counsel for the petitioner submitted that the statement of account of expenses in question was duly submitted on 27.08.2015 and hence there was compliance with the said provisions. He submitted that necessary affidavit in that regard dated 14.08.2015/20.08.2015 was duly sworn by the petitioner and on 27.08.2015 the statement of account of expenses came to be submitted. He referred to the averments made in paragraph 4 of the writ petition and submitted that the statement of account of expenses was submitted with a Clerk by name Shri Nagpure. Since the statement of account of expenses was submitted within a period of one month as required, the petitioner was not liable to be disqualified.

Shri V.A. Thakare, learned Assistant Government Pleader and Shri U.K. Bisen, learned counsel for the respondent no.3 supported the impugned order. It was submitted that there was no evidence on record in the form of any acknowledgment to indicate that statement of account of expenses had been submitted within a period of one month. Similarly, there is no statement by the concerned Clerk to indicate receipt of such statement of account of expenses as pleaded. Reference was made to the order dated 07.07.2015 that was issued by the Election Officer and Tahsildar indicating appointment of one Shri Kukde as the Officer entitled to receive such statement of account of expenses. As the statement of account of expenses was not submitted, the petitioner was rightly disqualified.

Heard the learned counsel and perused the documents on record. It is not in dispute that the petitioner was elected as a Member of the Gram Panchayat and the results were declared on 27.07.2015. The statement of account of expenses was required to be submitted within a period of one month and according to the petitioner on 27.08.2015 the statement of account of expenses was submitted to one Shri Nagpure, Clerk. The petitioner has relied upon his own affidavit dated 27.08.2015 in that regard. Perusal of the said affidavit which is on a stamp paper of Rs.100/- indicates that the same has not been duly filled in and there are no material particulars mentioned therein. Except the document indicating affirmation of the affidavit, nothing further can be gathered from the same. There is no statement or affidavit of the concerned Clerk who had accepted the statement of account of expenses from the petitioner. Similarly, there is no acknowledgement in that regard. It is on that basis that the Additional Commissioner has found that there is no document to indicate submission of statement of account of expenses within a period of one month. Even in the present proceedings, there is no such acknowledgment filed to indicate the submission of statement of account of expenses. Thus, in absence of any acknowledgment whatsoever, the impugned order cannot be faulted. In absence of any jurisdictional error, there is no reason to interfere with the impugned order.

The Writ Petition is therefore dismissed. No costs.

JUDGE