

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

18. WRIT PETITION NO. 1396 OF 2020

Ashwini W/o Dadasaheb Khindkar
age 26 years occup. Sarpanch
R/o Belwadi Tal. & dist. Beed

...Petitioner

VERSUS

1. Vandana W/o Parmeshwar Satpute
age 30 years occup. agriculture
R/o Babhalwadi Tal. & Dist. Beed
2. The Tahsildar @ Returning Officer,
Tahsil Office, Beed Tal. & Dist. Beed

...Respondents

Mr. D.A. Mane, Adv., h/f. Mr. N.G. Talekar, Advocate for petitioner

CORAM : ROHIT B. DEO, J.

DATE : 29th January, 2020

PER COURT :

1. The petitioner is respondent No.2 in Election Petition No. 3/2018, which is instituted by respondent No.1 herein, challenging the election of the petitioner as *Sarpanch* of Group *Gram-panchayat of Babhulwadi*-Belwadi-Bedukwadi. The petitioner-elected candidate preferred an application Exh. 42 under Section 151 of C.P.C.

contending that on similar allegations, respondent No.1 herein has approached the Collector, Beed, seeking disqualification of the petitioner under Section 16 of the Maharashtra Village Panchayats Act, 1959 and therefore, the Election Petition be stayed.

2. The learned Civil Judge (Senior Division), Beed, rejected the application, vide order dated 10th December 2019, rightly observing that the scope of Section 16, which is restricted to assert whether a person is disqualified and the scope of election petition under Section 15 is totally different. The Court further noted that copy of the Section 16 application was not placed on record.

3. I do not see any error in the order impugned, whereby the application for stay of the election petition is rejected.

4. The difference between disqualification and election is too well-recognized for this Court to make a reference to the catena of judgments holding the field. The scope of the two enquiries is essentially different. In any event, if at all, the petitioner could have approached the Collector with a request that the contentions, which are raised in support of the disqualification application, would have been better adjudication in the election petition. This has not been done.

5. The petition is dismissed.
6. The learned Trial Court is requested to expedite the trial of the election petition.
7. The learned Counsel for the petitioner states that the evidence is over. In this view of the matter, the election petition shall be disposed of within two months.

(ROHIT B. DEO)
JUDGE

Madkar