

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

932 WRIT PETITION NO.11521 OF 2017

1. Mohan Hari Patil
 2. Prakash Subhash Patil
 3. Gaurav Bhagwan Patil
 4. Smt. Sushila Dilip Shirsath
- ... Petitioners

Versus

1. The Divisional Commissioner
Nashik Division, Nashik & Ors.
- ... Respondents

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Mr. Patil Vinod Prakash, Advocate for Petitioners
 Mr. K.B. Jadhavar, AGP for Respondent Nos.1 to 3
 Mr. Anand I. Deshmukh, Advocate for Respondent No.4

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CORAM : V. K. JADHAV, J.
DATED : 22nd January, 2020

PER COURT :-

1. This writ petition pertains to the disqualification incurred by the petitioners on account of non submissions of election expenses within the prescribed period of 30 days. Learned counsel for the petitioners, on instructions restrict this petition to the extent that the disqualification period to be reduced and the effect may be given to the disqualification till expiry of term of the Grampanchayat i.e. August – 2020.

2. Learned counsel for the petitioners submits that after the election, all the petitioners started proceedings towards the Tahsil Office in a vehicle and met with an accident. In consequence thereof, petitioner no.3 has

sustained injuries. The petitioner no.3 was hospitalized for one day i.e. till 01.09.2015 and he was advised to take bed rest for near bout one month. Learned counsel submits that the medical certificate to that effect is placed on record. Learned counsel submits that the election expenses in the form of affidavits though verified on 31.08.2015 itself, the same could not submitted. Learned counsel submits that the authorities should have condoned the delay caused in submissions of the election expenses. Learned counsel submits that thus considering the entire aspect of case, at least the period of disqualification may be reduced till expiry of the term of Grampanchayat.

3. Learned counsel appearing for respondent no.4 submits that in terms of Section 14 (B) of the Maharashtra Village Panchayats Act, 1959, the petitioners have incurred disqualification for non submissions of election expenses and both the authorities below have observed that the explanation submitted by the petitioners is not satisfactory. Assuming that the affidavits are verified on 31.08.2015, however, there was no reason for the other petitioners to submit those affidavits before the concerned authority beyond the prescribed period of 30 days. There is no explanation for that. Only petitioner no.3 got injured and admitted in the hospital. However, the other petitioners had not sustained any injuries nor they were

admitted in the hospital. Learned counsel submits that the impugned order is proper, correct and legal. There is no substance in this writ petition. The writ petition is liable to be dismissed.

4. I have also heard the learned AGP for the respondent Nos.1 to 3 – State. Learned AGP has supported the order passed by the authorities below.

5. This writ petition is restricted to the extent of reducing the period of disqualification. On perusal of the affidavits of the election expenses, it appears that the said affidavits came to be verified on 31.08.2015 itself. Though the petitioners have tried to explain the delay, however, it appears that the petitioner no.3 got injured in the accident and the medical certificate has been placed on record to that extent. There was no reason for the petitioners in not submitting the said affidavits pertaining to the election expenses till 17.11.2016 though it was verified on 31.08.2015. Thus considering the entire aspect of the case, the authorities below should have considered the period of disqualification and reduced it to some extent. In the instant case, the term of Grampanchayat expires in the month of August – 2020. In view of the same, it would be just and proper if the said period is reduced to till the expiry of the term of the Grampanchayat. Hence, I proceed to pass the following order:

ORDER

(I) The writ petition is hereby partly allowed.

(II) The impugned order dated 10.03.2017 passed by the learned District Collector, Jalgaon in Dispute Application No.05 of 2016 confirmed by the order dated 30.06.2017 passed by the learned Divisional Commissioner Nashik Division, Nashik in Grampanchayat Appeal No.165 of 2017, is modified to the extent that the petitioners shall be disqualified for being a Member of Panchayat for a period till expiry of the term of Grampanchayat i.e. August – 2020.

6. Needless to say that in the next election of the Grampanchayat after August-2020, the petitioners would be entitled to contest the election of the Grampanchayat.

7. Rest of the order passed by the authorities below stands confirmed.

8. The writ petition is accordingly disposed off.

(V. K. JADHAV, J.)

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