

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Civil Application No.2268/2018

In

Writ Petition No.867/2017

Pankaj Tadas V The Collector, Wardha and others

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

Court's or Judge's orders

Shri F.T. Mirza, Adv for petitioner.

Shri M.I. Dhatrak, Adv for resp. no.2.

Shri Omkar Deshpande, Adv h/f Shri Anand Parchure, Adv for
resp. nos. 4 and 5.

Shri M.P. Khajanchi, Adv for resp. no.6.

Shri M.A. Kadu, AGP for resp. no.1.

CORAM : Z.A. HAQ &
S.M. MODAK, JJ.

DATE : 06-01-2020.

Heard.

Considering the nature of controversy and the fact that
the learned Advocates for the parties have shown willingness to
argue the matter finally, Writ Petition is taken up for final hearing.

Civil Application is allowed accordingly.

Writ Petition No.867/2017

The petitioner, himself candidate for nomination as
Municipal Councillor has challenged nomination of respondent
no.4 as Councillor on the ground that he does not fulfill the
requisite eligibility as per the Maharashtra Municipal Councils and
Nagar Panchayats (Qualifications and Procedure for Appointment
of Nominated Councillors) Rules, 2010 (hereinafter referred to as
'the Rules of 2010').

2. It is not in dispute that respondent no.4 offered his candidature for nomination as Councillor contending that he is eligible for nomination as per Rule 4(g) of the Rules of 2010. According to the petitioner, respondent no.4 had not been office bearer of any Non-Government Organization registered under the Maharashtra Public Trusts Act, 1950 engaged in Social Welfare activities working within the area of a Municipal Corporation or a Municipal Council.

3. After considering the controversy and examining the material on record, this Court passed an order on 26-07-2017, prohibiting the respondent no.4 from functioning as nominated Councillor. In the order dated 26-07-2017, this Court has recorded that respondent no.4 has neither pleaded that he had been office bearer of Non-Government Organization registered under the Act of 1950 nor the respondent no.4 has placed any document on record to substantiate that he fulfilled the eligibility criteria as per Rule 4(g) of the Rules of 2010.

4. Till date, respondent no.4 has not placed any material on record to show that at the time of consideration of his candidature, he fulfilled the eligibility criteria as per Rule 4(g) of the Rules of 2010. Hence, we find substance in the contention of the petitioner and pass the following order :-

ORDER

- i) Rule is made absolute in terms of prayer Clause (b) of the Writ Petition, which reads as follows :-

“(b) to declare the nomination of respondent no.4 as Municipal Councillor illegal and void-ab-initio being made on the basis of fraud played by him on the Authorities.”

- ii) In our view, respondent no.4 has made an attempt to get himself nominated as Municipal Councillor, illegally and it has given rise to unwanted litigation. Hence, respondent no.4 shall pay costs of ₹ 1,00,000/- to the petitioner.
- iii) The amount of costs shall be paid to the petitioner by Demand Draft and affidavit of compliance shall be filed on record within one month.

JUDGE

JUDGE