

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

WRIT PETITION NO.3054 OF 2020

Balasaheb Venunath Bankar	..Petitioner
Vs.	
The State of Maharashtra, through Secretary and ors.	..Respondents

Mr.N.B.Narwade, Advocate for petitioner
Mr.S.N.Morampalle, AGP for respondent nos.1 to 4

**CORAM : R.G. AVACHAT, J.
DATE : FEBRUARY 15, 2021**

ORDER :-

The challenge in this petition is to the order dated 15.07.2016 passed by the District Collector, Ahmednagar, in Grampanchayat Dispute Application No.228 of 2015 and the order dated 30.10.2017 passed by the Divisional Commissioner, Nashik Division, Nashik, in Grampanchayat Appeal No.166 of 2017, confirming the order passed by the District Collector on 15.07.2016.

2. By the impugned order of the Collector, the petitioner has been disqualified for contesting election for being a Member, for a period of five years from the date of the impugned order

since, the petitioner failed to submit account of election expenses within time and in the manner required by the State Election Commission and has also failed to show good reason or justification for such failure.

3. The election for the post of Member of Shani Shinganapur Grampanchayat was held in August, 2015. The petitioner had filed two nomination papers for ward No.2; one was for a seat reserved for O.B.C. candidate and another was filed for a seat reserved for male (open category). On scrutiny, the nomination paper of the petitioner for the seat reserved for male (open category) was cancelled. The petitioner contested the election for the seat reserved for O.B.C. category. He claimed to have submitted account of election expenses of the said election. He, however, did not submit account of election expenses of the nomination paper filed by him for the post of male (open category). On 07.01.2016, he submitted account of expenses with explanation that he could not furnish same on time due to inadvertence. He also requested for not taking any penal action against him.

4. The Collector has observed in his impugned order that the election of Shani Shinganapur Grampanchayat, Tq. Newasa, Dist. Ahmednagar, were held on 04.08.2015 and counting of votes took place on 06.08.2015. Within a period of thirty days (latest by 05.09.2015) from the date of result of the election was declared, it was necessary for the candidates to furnish account of election expenses. It has further been observed that the petitioner submitted the account of election expenses after the period for its submission was over. It has also been observed that the petitioner did not offer any satisfactory reason or explanation in support of delayed submission of account of election expenses. The Collector, therefore, in exercise of the powers under Section 14B of the Maharashtra Village Panchayats Act ("the Act", for short) declared the petitioner to be disqualified for contesting election for a period five years.

5. The petitioner challenged the Collector's order in appeal preferred to the Divisional Commissioner, Nashik. He

has, however, been unsuccessful in the said appeal. The Divisional Commissioner reiterated the reasons given by the Collector and upheld the Collector's order.

6. Mr.Narwade, learned counsel for the petitioner, would submit that disqualification of the petitioner to contest the election for five years, is a very harsh penalty. The petitioner had already submitted the account of election expenses within time of the election he contested. He, however, could not submit the account of election expenses within time for the election of which nomination form submitted by him had been withdrawn. The petitioner submitted account of expenses of the same also, but somewhat late. Delay was unintentional. All the factors have not been considered by the authorities namely, the Collector and the Divisional Commissioner. He, therefore, urged for setting aside the impugned orders.

7. Learned AGP would, on the other hand, supported the impugned orders.

8. Section 14B of the Act reads thus:-

14B. Disqualification by State Election Commission.-

(1) If the State Election Commission is satisfied that a person,-

(a) has failed to lodge an account of election expenses within the time and in the manner required by the State Election Commission, and

(b) has no good reason or justification for such failure, the State Election Commission may, by an order published in the Official Gazette, declare him to be disqualified and such person shall be disqualified for being a member of panchayat or for contesting an election for being a member for a period of five years from the date of the order.

(2) The State Election Commission may, for reasons to be recorded, remove any disqualification under sub-section (1) or reduce the period of any such disqualification.

The Apex Court, in the case of Laxmibai Vs. the Collector, Nanded and ors., in Civil Appeal No.1622 of 2020 (arising out of SLP (CIVIL) No.16837 of 2019) decided on 14.02.2020, has held as under :-

7.

A bare perusal of [Section 14B](#) of the 1959 Act shows that the State Election Commission is to be satisfied as to whether a person has no good reason or justification for the failure to furnish account of election expenses. Secondly, in terms of sub-section (2), for the reasons to be recorded, the disqualification under sub-section (1) can be removed or the period of disqualification can be reduced.

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10. We do not find any merit in the argument that [Section 14-B](#) of the 1959 Act is mandatory. Sub-section (1) of [Section 14-B](#) of the said Act empowers the State Election Commission to pass an order of disqualification of a candidate, if the candidate fails to lodge account of election expenses for lack of good reason or without any justification. Such satisfaction is required to be recorded by the Election Commission. The disqualification for a period of five years is not necessary consequence of merely not filing account of election expenses. Still further, subsection (2) empowers the State Election Commission for reasons to be recorded, remove any disqualification under sub-section (1) or reduce the period of any such disqualification. Since authority is vested with power to reduce the period of disqualification, therefore, makes the provision directory.

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12. In the present case, there are no prohibitive or negative expressions used in [Section 14B](#) of the 1959 Act, as it empowers the Election Commission to pass a just order of disqualification. Such provision cannot be treated to be mandatory period of five years in view of plain language of the Statute.

9. The petitioner was expected to submit an account of expenses on or before 05.09.2015. He appears to have submitted the same on 07.01.2016 i.e. little over three months after the time for submitting account of election expenses, was

over. There is no dispute that the petitioner had filed two nomination papers from ward no.2. One nomination was preferred for a seat reserved for O.B.C. category and the another one for male (open category). He, lateron, withdrew his nomination paper for the seat reserved for male (open category). Indisputably, the petitioner submitted the account of expenses of the election he contested for the post reserved for O.B.C. category. The petitioner has, therefore, every reason to contend that due to inadvertence, he could not submit the account of election expenses of the election which he did not, in fact, contest. The petitioner submitted the account of expenses of the said election on 07.01.2016.

10. Declaring the petitioner disqualified for contesting the election for the post of Member, for a period of five years from the date of the impugned order, is, therefore, found to be grossly disproportionate with the lapse on the part of the petitioner in delayed submitting of the account of election expenses. In my view, therefore, the impugned orders are unsustainable.

11. Hence, the following order :-

(i) The order of the Collector dated 15.07.2016 and the subsequent order passed by the Additional Commissioner in appeal on 30.10.2017 are partly set aside to the extent of prescribing disqualification for a period of five years.

(ii) The matter is remitted to the Collector to take into consideration the period of delay/default, the purpose for which the election expenses are sought to be furnished, etc.

(iii) The Collector shall pass order afresh in respect of the period of disqualification preferably, within a period of three months from the date of receipt of copy of this order. The period of disqualification, if any, shall be operative from the date of order passed earlier by the Collector.

(iv) The Writ Petition stands disposed of accordingly.

[R.G. AVACHAT, J.]

KBP