

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

WRIT PETITION NO. 9151 OF 2020

Vitthal Panditrao Jadhav ... Petitioner
Versus
The District Collector, Jalna and another ... Respondents

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Mr. Aditya Sikchi, Advocate for petitioner
Mr. S. P. Tiwari, AGP for respondent No.1
Mr. A. B. Kadethankar, Advocate for respondent No.2

....

CORAM : R. G. AVACHAT, J.

DATED : 08th FEBRUARY, 2021

PER COURT :-

. Heard.

2. The order dated 31.03.2018 passed by the Collector, Jalna – respondent No.1, disqualifying the petitioner for being a member of Grampanchayat and/or for contesting election for being a member of Grampanchayat for a period of five years, is under challenge in this writ petition.

3. Elections of Grampanchayat – Devmurti, were held in November-2015. The petitioner contested the said election from two wards, namely ward Nos.1 and 3. As he failed to submit election

expenses within thirty days in the manner prescribed by the State Election Commission in terms of Section 14B of the Maharashtra Village Panchayats Act, 1959 (for short 'the Act of 1959'), respondent No.1 issued him show cause notice to explain as to why he should not be disqualified in terms of Section 14 of the Act of 1959.

The petitioner gave his explanation. Having not been satisfied with the explanation given by the petitioner, respondent No.1 vide impugned order dated 31.03.2018, disqualified him from becoming member of a village panchayat for a period of five years.

4. In the case of *Laxmibai vs. Collector, Nanded and others* reported in **2020 SCC OnLine SC 187**, it has been held :-

“..... since authority is vested with power to reduce the period of disqualification, S.14B is not mandatory and the disqualification for a period of five years is not necessary consequence of merely not filing account of election expenses – The extent of period of disqualification has to be in proportion to the default and in the instant case the order of disqualification for a period of five years is without taking into consideration the extent of default committed by the appellant and that the will of people is being interfered with in the wholly perfunctory way and is liable to be set aside.”

5. Reading of the impugned order would indicate that respondent No.1 did not give reasons as to why he was not satisfied

with the explanation given by the petitioner. On this sole ground, the impugned order is liable to be set aside with a direction to the respondent No.1 to pass reasoned order after giving the petitioner an opportunity of hearing.

6. With the aforesaid observations, the writ petition is allowed. The impugned order is hereby set aside. Respondent No.1 shall hear the petitioner and then pass reasoned order.

[R. G. AVACHAT, J.]

SMS