

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5448 OF 2021

Javed Ghulam Mohammed Dalvi ... Petitioner

Versus

The State of Maharashtra & Ors. ... Respondents

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Mr. Atharva Dandekar, Mr. Sumit Kothari and Mr. Gautam Jain for the Petitioner.

Mr. V. S. Gokhale, 'B' Panel Counsel for the State.

Mr. J. M. Joshi for the Respondent Nos. 4 to 21.

Ms Pooja Singh i/b Mr. N. R. Bubna for Respondent No.3.

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**CORAM : K.K. TATED &
PRITHVIRAJ K. CHAVAN, JJ.**

DATE :SEPTEMBER 13, 2021.

P.C. :-

1. Heard.

2. By this petition, under Article 226 of the Constitution of India, the Petitioner is seeking directions against Respondent No.2 to dispose of Reference Petition No. 1/2019 within four weeks from the next scheduled date i.e. within four weeks from 28/09/2021 or within such definite period as this Hon'ble Court may deem fit.

3. The learned counsel for the Petitioner submits that the Petitioner

filed a reference petition under Section 3 (7) of the Maharashtra Local Authority Members' Disqualification Act, 1986 read with Rule 6 of the Maharashtra Local Authority Members' Disqualification Rules, 1987 on 19/12/2019 before the Divisional Commissioner, Konkan Division. He submits that as per Rule 7(7) of the Maharashtra Local Authority Members' Disqualification Rule, 1987, the Authority has to decide the said application as early as possible but within 90 days from the date of the filing. Rule 7(7) of the Maharashtra Local Authority Members' Disqualification Rule, 1987 reads thus:

“7[(7) The petition shall be dealt with by the Commissioner, or as the case may be. Collector, as expeditiously as possible and endeavour shall be made by him to dispose of the petition within 90 days from the date of receipt of the petition :

Provided that, where any petition could not be disposed of within the said period of 90 days, the Commissioner, or as the case may be, the Collector, shall record his reasons, in writing, for not disposing of the petition within the said period.]

4. The learned counsel for the Petitioner submits that as the petition is pending till today, the Petitioner filed the present petition.

5. We heard both sides at length. It is to be noted that, the Petitioner filed a reference petition on 19/12/2019. Thereafter, matter was adjourned on one or another ground at the request of the advocate for

the Respondents. The bare reading of the Roznama dated 28/01/2021, 16/02/2021, 18/02/2021, 19/03/2021, 01/04/2021, 06/04/2021, 15/06/2021, 18/06/2021, 25/06/2021 and 29/06/2021 clearly shows that the matter was adjourned before the Authority at the request of the advocate for the Respondents. Considering these facts and Rule 7(7) of the Maharashtra Local Authority Members' Disqualification Rule, 1987, we are satisfied that the Petitioner has made out a case for allowing this petition. Hence, the following order:

- a. Respondent No.2 i.e Divisional Commissioner, Konkan Division is directed to decide the Petitioner's reference petition No.1/2019 filed on 19/12/2019 under Section 3(7) of the Maharashtra Local Authority Members' Disqualification Act, 1986 read with Rule 6 of the Maharashtra Local Authority Members' Disqualification Rules, 1987 as early as possible, on its own merits but, in any case, on or before 31/12/2021 and inform their decision to the other side.
- b. The writ petition stands disposed of with those directions.
- c. No order as to costs.

(PRITHVIRAJ K. CHAVAN, J.)

(K.K. TATED, J.)