

Vidya Amin

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

WRIT PETITION NO. 7871 OF 2021

Dnyaneshwar Sadashiv Kedare

... Petitioner

V/s.

Rahul Shivaji Dhomse & Ors.

... Respondents

Mr. Pramod N. Joshi for the petitioner.

Mr. P.P. Pujari, AGP for the State.

**CORAM : G.S.KULKARNI, J.
DATE : 23 November, 2021**

P.C.:

Heard Mr. Joshi, learned counsel for the petitioner and Mr. Pujari, learned AGP for the State.

2. The challenge in this petition is to an order dated 24 August, 2021 passed by the learned Commissioner, Nashik Division, Nashik whereby an interim application for stay in the Gram Panchayat Election Appeal No. 7 of 2021 filed by the petitioner has been rejected. The petitioner had contested Grampanchayat's election of Gortha Grampanchayat Taluka Niphad, District Nashik held on 19 December, 2019. As per the provisions of Section 14B of the Maharashtra Village Panchayat Act, 1958 (for short "**the Act**") and the rules framed therein by the Election Commissioner, the petitioner was required to lodge an account of election expenses

within the prescribed period of one month from the date of election. Such accounts were not submitted. Respondent no. 1 lodged complaint against the petitioner contending that the petitioner stood disqualified under the provisions of Section 14B of the Act. Accordingly, the proceedings were initiated before the Collector, being Gram Panchayat Dispute No. 55 of 2021, which came to be decided against the petitioner by an order passed by the Collector dated 26 July, 2021. Considering the rival contentions, learned Collector held the petitioner to be disqualified under the provisions of Section 14B. Against such order passed by the Collector, the petitioner has filed Statutory Appeal before the Commissioner. He moved an interim application praying for stay of the said order. By the judgment and order dated 24 August, 2021, the said application for stay is rejected.

3. Having heard Mr. Joshi and learned AGP, what concerns Mr. Joshi is the subsequent development which has taken place, namely, steps being taken by the Election Commissioner to notify a by-election. It is informed by Mr. Joshi that nominations to fill up the vacancy are required to be filed by 6th December and the actual elections would be held on 21 December, 2021.

4. In the aforesaid circumstances, in my opinion, as the appeal filed by the petitioner is pending, it would be appropriate that the Commissioner considers the petitioner's Appeal as expeditiously as possible and decide the same by 15 December, 2021 positively. This more particularly as a short issue is involved.

5. Needless to observe that in the meantime, if an election process is being undertaken, it shall be subject to the outcome of the Appellate proceedings as instituted by the petitioner.

6. All contentions of the parties in the pending appeal are expressly kept open.

7. Disposed of in the above terms. No costs.

(G.S.KULKARNI, J.)

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