

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

Writ Petition No. 1932 of 2021

Dilip S/o Tulshidas Goplani
Vs.
The Collector, Gondia and Others

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

Court's or Judge's orders

Mr. A.M. Ghare, Advocate for the petitioner
Mr. A.M. Kadular, A.G.P. for respondents No.1, 3 & 5
Mr. Anup Gilda, Advocate for respondent No.2

CORAM : MANISH PITALE, J.

DATED : JUNE 14, 2021

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. The petitioner is constrained to file the present Writ Petition before this Court to challenge an order dated 12/04/2021, passed by the respondent No.1 – Collector, whereby the petitioner has been disqualified from holding the position of Municipal Councillor of the Municipal Council, Gondia under Section 44 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965. Although a statutory appeal under the provisions of the said Act is already filed along with an application for stay on behalf of the petitioner before the Appellate

Authority i.e. the Hon'ble Minister for the Department of Urban Development, Mumbai, due to the prevailing pandemic situation, the appeal could not be taken up for consideration along with the application for stay.

3. According to the petitioner, the respondent No.1 did not serve a copy of the order dated 12/04/2021 on him and it was only when the matter came up in news and media that he rushed to the office of respondent No.1 to obtain a certified copy, to file the aforesaid appeal. According to the petitioner, since the appeal and the application for stay are not being heard by the Appellate Authority, he is constrained to approach this Court.

4. On 04/06/2021, this Petition was taken up for hearing, when it was adjourned for the learned counsel for the petitioner to place on record relevant documents and thereafter it was listed on 08/06/2021 for ensuring that the pursis along with documents was found in the papers of this Court. Today, the pursis and said documents have been placed before this Court and relying upon the same, the learned counsel for the petitioner submits that the order dated 12/04/2021, passed by the respondent No.1 disqualifying the petitioner is wholly perverse in the face of said documents.

5. The learned A.G.P. appearing on behalf of the respondent – State Authorities submits on instructions that in view of the change in the pandemic situation in Maharashtra, it could be possible for the Appellate Authority to take up the appeal along with application for stay filed by the petitioner for consideration within a period of two weeks from today and that, therefore, the parties should be relegated to appear before the Appellate Authority.

6. The learned counsel appearing for the contesting respondent No.2 submits that if opportunity is granted, some documents could be placed on record before this Court to answer the contentions raised on behalf of the petitioner.

7. In view of the statement made by the learned A.G.P. , this Court is of the opinion that instead of considering the contentions raised on behalf of the petitioner and the contesting respondent in the present Writ Petition, it would be appropriate that the appeal filed by the petitioner before the Appellate Authority is itself decided on merits expeditiously. At the same time, it would be in the interest of justice that steps for filling the vacancy created by disqualification of the petitioner are directed to be kept in abeyance, till the appeal is decided on merits by the Appellate Authority.

8. In view of the above, the Writ Petition is disposed of by directing the Appellate Authority i.e. the Hon'ble Minister, Department of Urban Development, Mumbai to take up the appeal along with application for stay filed by the petitioner for consideration within a period of two weeks from today. The said Appellate Authority is further directed to finally dispose of the appeal within a period of six weeks from today. It would be in the interest of the rival parties that they appear before the Appellate Authority at the earliest so that the appeal along with application for stay can be taken up for consideration. Accordingly, the parties shall appear before the Appellate Authority on 22/06/2021.

9. The learned A.G.P. shall inform the said Appellate Authority about the order passed today in the present Writ Petition so as to ensure that the appeal filed by the petitioner is taken up for consideration on merits and disposed of within the aforesaid period of six weeks from today.

10. The Writ Petition is disposed of in above terms.

JUDGE