

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1598 OF 2021

SUNIL REVANSIDDAPPA UTAGE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Senior Advocate for Petitioners : Mr. V. J. Dixit i/b. Mr. Sushant V. Dixit
AGP for Respondents No.1 and 2 -State : Mr. S. G. Karlekar
Advocate for Respondents No.3 and 4 : Mr. Sayyed Tauseef Vaseen

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WITH
WRIT PETITION NO.7224 OF 2021

SUNIL REVANSIDDAPPA UTAGE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Senior Advocate for Petitioners : Mr. V. J. Dixit i/b. Mr. Sushant V. Dixit
AGP for Respondents No.1 and 2 -State : Mr. S. G. Karlekar
Advocate for Respondent No.3 : Mr. Sayyed Tauseef Vaseen
Advocate for Respondent No.4 : Mr. Ajit B. Kadethankar

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**CORAM : A. S. GADKARI AND
S. G. MEHARE, JJ.**

DATE : 15-02-2022

P. C. :-

1. Petitioners in Writ Petition No. 1598 of 2021 have challenged Order dated 09.12.2020 passed by respondent No.2 (Page No. 97), thereby disposing off the Appeal preferred by the petitioners.

In the said Appeal, the petitioners had impugned Resolution No. 2, dated 07.01.2019 passed in Special General Body Meeting of respondent No.3 – Ausa Municipal Council.

Respondent No. 2 had disposed off the said Appeal on the ground that, proceedings pertaining to removal of petitioners as contemplated under Section 42 of the Maharashtra Municipal Councils Nagar Panchayats and Industrial Townships Act, 1965 (for short, “the said Act”) were pending before the Honourable Minister of respondent No.1.

2. This Court, by its Order dated 4th February, 2021, passed in present petition had permitted the respondent No.1 to proceed with the said proceeding initiated under Sub-Section 1 of Section 42 of the said Act. The Honourable Minister of Urban Development Department of respondent No.1 has passed the Order dated 17th June, 2021, under Section 42 of the said Act, thereby disqualifying the Petitioners for a period of five years from being Members of the Municipal Council or any other local authority. The said Order is impugned in Writ Petition No. 7224 of 2021.

3. It is to be noted here that, the genesis of passing of the impugned Order dated 17th June, 2021, is the resolution No.2, dated 07.01.2019 passed by respondent No.3 - Ausa Municipal Council.

As the ultimate result of the said proceedings has now

culminated into Order dated 17th June, 2021, passed by the Honourable Minister of the concerned Department, which is challenged in Writ Petition No. 7224 of 2021, according to us, the cause of action for filing Writ Petition No.1598 of 2021 as of today does not survive. The petitioners have also raised grounds with respect to the validity of resolution No.2 dated 07.01.2019 passed by the respondent No.3 AUSA Municipal Council, in Writ Petition No. 7224 of 2021. It appears to us that, rather the said ground is bone of contention on the part of the petitioners, who have assailed the Order passed by the Honourable Minister.

In view of the above, Writ Petition No. 1598 of 2021 as on today does not survive and is accordingly disposed off.

4. We however make it clear that, the petitioners are not precluded from challenging their disqualification including the validity of resolution No.2 dated 07.01.2019 passed by respondent No.3 Municipal Council, while assailing the Order dated 17th June, 2021, passed by the concerned Honourable Minister which they have in fact done in Writ Petition No. 7274 of 2021.

5. As far as Writ Petition No. 7224 of 2021 is concerned, the order impugned herein is a quasi judicial Order passed by the Honourable Minister of the concerned Department. In view of Rule 18 of Chapter – XVII of the Bombay High Court (Appellate Side) Rules, 1960, *prima*

facie it appears that, present Petition pertains to the assignment of learned Single Judge exercising jurisdiction under Article 227 of the Constitution of India.

6. In view thereof, the Registrar (Judicial) is directed to verify the Roaster and place the petition before the appropriate Bench.

The learned Advocate for the petitioners is permitted to assist the Registrar (Judicial).

7. Liberty to circulate the Writ Petition No. 7224 of 2021 before appropriate Bench is granted.

(S. G. MEHARE)
JUDGE

(A. S. GADKARI)
JUDGE