

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

910 WRIT PETITION NO.12124 OF 2021

**MAHADEV PANDHARI PHAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner: Mr. Kedar Ganesh L
AGP for Respondent Nos.1 to 3: Mr. K. B. Jadhavar
Advocate for Respondent No.4: Mr. Ajit Kadethankar

...

CORAM: ARUN R. PEDNEKER, J.

DATE: 25th NOVEMBER, 2022

PER COURT:

1. Vide the present petition, the petitioner is challenging the judgment and order passed by the Additional Commissioner at Aurangabad dated 27.05.2019 in appeal upholding the order dated 05.12.2018 passed by the Collector, whereby the petitioner was disqualified under section 14B of the Maharashtra Village Panchayat Act, 1959 for not submitting the accounts of election expenses for the election of grampanchayat within the stipulated time and in the manner required by the State Election Commission and had accordingly disqualified the petitioner for a further period

of 6 years from being the member of the panchayat from the order dated 05.12.2018 passed by the Collector, Beed.

2. Brief facts leading to the present petition are as under.

3. The petitioner was elected as a member of the village panchayat Pimpri, Taluka – Ambajogai, District Beed on 09.10.2017. On 01.11.2017, the petitioner was issued show cause notice by the Tahsildar Ambajogai in respect of non submission of election expenses within the stipulated time. It was further mentioned in the said notice that the same shall be submitted within the stipulated time, failing which coercive action would be taken. After receipt of notice dated 01.11.2017, the petitioner approached the Tahsildar Ambajogai for submission of his election expenses. Thereafter, another notice was issued on 19.03.2018 by the Tahsildar's office at Ambajogai fixing the matter for hearing for non submission of the election expenses. After hearing the

petitioner, the Collector Beed passed an order dated 05.12.2018 under section 14B of the Act. By order dated 05.12.2018, the petitioner was disqualified in terms of section 14B of the Act for having failed to give accounts of election expenses within the time and in the manner required by the State Election Commission. The Collector further disqualified the petitioner for a period of 6 years from being a member of panchayat or for contesting an election for being a member of a panchayat for a period of 6 years. The petitioner filed an appeal before the Additional Commissioner, which was dismissed by order dated 27.05.2019, against which the present writ petition is filed.

4. The petitioner in this writ petitioner has restricted his appeal only to the extent of the further disqualification for a period of 6 years granted by the Collector. The petitioner is relying upon the judgment of Laxmibai Vs. The Collector, Nanded and others reported in (2020) 12 SCC 186. The learned counsel relies on para 20 of

the judgment of the Hon'ble Supreme Court, which has observed as under:-

"20. The disqualification of a candidate for five years passed under Section 14B of the 1959 Act leads to disqualification for future election as well. Though, Section 14B of the 1959 Act empowers the Commission to disqualify a candidate for a period no exceeding five years from the date of the order, but to pass an order of disqualification for five years, which may disqualify him to contest the next elections as well requires to be supported by cogent reasons and not merely on the fact of not furnishing of election expenses. We find that 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. We find that such mechanical exercise of power without any adequate reasons, though required to be recorded, renders the order of disqualification for a period of five years as illegal and untenable. It is abdication of power which is coupled with a duty to imposes just period of disqualification. Therefore, though the appellant could be disqualified for a period upto five years, but we find that such a period of disqualification must be supported by tangible reasons lest it would border on being disproportionate."

5. Relying upon the judgment of the Laxmibai (*supra*), the learned counsel submits that there is no reasoning given by the Collector to impose

disqualification for a further period of 6 years and, thus, this part of the order of the Collector may be set aside.

6. I have perused the judgment of the Collector with the assistance of the learned AGP and I find that there is absolutely no reasons given for disqualification of the petitioner for the further period of 6 years and in any event the further disqualification as contemplated under section 14B of the Act cannot be beyond 5 years.

7. In view of the judgment of the Hon'ble Supreme Court in the case of Laxmibai (*supra*), as the Collector has not given any reasons for further disqualification for the period of 6 years, and since the learned counsel for the petitioner has restricted his challenge to his disqualification for further period of 6 years as it is hampering his future elections, in the interest of justice and as there are no reasons for disqualification of the petitioner for further period of 6 years, the disqualification of the

petitioner under Section 14B is restricted to his term of the panchayat. He would not be disqualified in contesting further elections.

8. Since the petitioner's terms as member of village panchayat has come to an end, I am restricting the disqualification of the petitioner to the extent of his term. The orders dated 05.12.2018 passed by the Collector and 27.05.2019 passed by the Additional Commissioner are modified accordingly.

9. In view of the above, writ petition is disposed of.

[ARUN R. PEDNEKER, J.]

marathe