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

**WRIT PETITION NO.3796 OF 2022**

Nitin Ashok Patil and Others

PETITIONERS

VERSUS

The Additional Commissioner and Others

RESPONDENTS

.....

Mr. Mayur V. Salunke Advocate for the petitioners

Mr. S. N. Kendre, AGP for respondent - State

Mr. M. S. Deshmukh, Advocate for respondents No.3 to 5

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**[CORAM : NITIN B. SURYAWANSHI, J.]**

**DATE : 20<sup>th</sup> APRIL, 2022**

**ORDER :**

1. The petitioners are elected as members of village Panchayat Karmad (Khurd), Taluka – Parola, District – Jalgaon in the election held on 15<sup>th</sup> January, 2021. Respondents No.3 to 5 sought disqualification of the petitioners by filing proceedings under section sections 14-B (2) and 16 of the Maharashtra Village Panchayat Act, 1958 (hereinafter for short “the said Act”) contending that the petitioners have failed to submit the account of election expenses within a period of thirty days from the date of declaration of the election result i.e. 18<sup>th</sup> January, 2021. The

petitioners opposed said proceedings, by filing say that the petitioners have filed election expenses on 18<sup>th</sup> February, 2022, which is within time and, therefore, they may not be disqualified. The Collector – respondent No.2, vide order dated 4<sup>th</sup> February, 2022 disqualified the petitioners.

2. The petitioners, therefore, challenged the order of their disqualification, by filing appeal under section 14B (2) of the said Act, before the Additional Commissioner – respondent No.1. The petitioners have contended that the election results were declared on 18<sup>th</sup> January, 2021 and thereafter, when the petitioners went to submit the account of the election expenses, on 16<sup>th</sup> February, 2016, the returning officer was not available. Then on 17<sup>th</sup> February, 2021, when the petitioners again approached the office of the returning officer, they were informed that the returning officer has expired, due to heart attack. The officers present in the office of the returning officer refused to accept the accounts of election expenses. Therefore, the petitioners, on 18<sup>th</sup> February, 2021, submitted the account of the election expenses to the Tahsildar, Parola. Along with the appeal, the petitioners filed application seeking stay to the order of disqualification. The stay application filed by the petitioners is rejected by the Commissioner – respondent No.1. Hence, the

present writ petition.

3. This matter was heard for admission on 23<sup>rd</sup> March, 2022 and interim order is passed in favour of the petitioners. Now, respondents No.3 to 5 have appeared in the matter and opposed the writ petition.

4. Heard learned advocate for the petitioners. Learned advocate for the respondents and the learned Assistant Government Pleader.

5. Learned advocate for the petitioners submits that election results were declared on 18<sup>th</sup> January, 2021 and the petitioners submitted election expenses on 18<sup>th</sup> January, 2021, however, the Collector has erroneously held that the election expenses should have been submitted on or before 16<sup>th</sup> February, 2021. By relying in ***"Shaikh Nisar Ibrahim and Another V/s State of Maharashtra and Others"*** 2019 (5) Mh.L.J. 749, he submits that minor delay of 2 days in this case ought to have been condoned and the Collector was not justified in disqualifying the democratically elected petitioners on this technical ground.

6. Learned advocate for the respondents vehemently opposed the writ petition contending that the petitioners have not placed on record the complete copy of the order passed by the

Commissioner refusing stay to the petitioners. The petitioners have only placed on record the copy of the letter intimating them that their stay application is rejected. He pointed out the note below the said letter, which states that if certified copy of the decision is required, the petitioners may obtain the same by depositing necessary charges. By pointing out averments in the writ petition that respondent No.1 has passed un-reasoned order, learned advocate for the respondents submits that the petitioners have secured interim relief in their favour by making incorrect submissions. By relying in **"K. D. Sharma V/s Steel Authority of India Ltd and others"** (2008) 12 SCC 481, he submits that since the petitioners have suppressed complete order of refusing stay in the appeal filed by the petitioners, the writ petition may be dismissed summarily on this ground alone.

7. It is a matter of record that the petitioners are disqualified as members of the village panchayat, on the sole ground that they failed to submit election expenditure within thirty days from the date of declaration of election result. The election result, in the present case, is declared on 18<sup>th</sup> January, 2021 and the petitioners have submitted the accounts of election expenses on 18<sup>th</sup> February, 2021. In **"Shaikh Nasir Ibrahim"** (*supra*), learned single judge of this Court (Coram: Ravindra V. Ghuge, J.) has

held that - "*the ground for disqualification on account of failure to submit account of election expenses could not be compared with more serious grounds which would warrant and justify disqualification of candidates in those cases of misappropriation and disgraceful conduct.*" It is further held that - "*minor delay in filing account of election expenses could be condoned under section 14 B (1) (b) of the said Act.*" The petitioner's case is covered by the observations in this ruling.

8. Indisputably, the petitioners have challenged the order passed by respondent No.1 refusing to grant stay to the disqualification of the petitioners during the pendency of the appeal. No doubt, the petitioners have not placed on record the complete copy of the impugned order, the fact remains that the petitioners are aggrieved by refusal of stay. This court granted interim relief in favour of the petitioners taking into consideration the ratio in "***Shaikh Nasir Ibrahim***" (supra). In this view of the matter, the arguments of the respondents that the petitioners have secured interim relief by making incorrect statements in the writ petition and by misleading this court, cannot be accepted.

9. In ***K. D. Sharma***" (supra), the Hon'ble Apex Court has held that if false statements are made or there is suppression of

material facts or attempts to mislead the Court are made by the applicant, then the court may dismiss the action on that ground alone and may refuse to enter into the merits of the case.

Such are not the facts of the present case. The petitioners have not made any false statement or suppressed any material fact and have not attempted to mislead this court. Therefore, the ratio in this ruling would not further the case of the respondents.

10. Statutory appeal filed by the petitioners since is sub-judice before respondent No.1, he ought to have granted stay in favour of the petitioners, by taking into consideration the ratio in "*Shaikh Nasir Ibrahim*" (*supra*). The impugned order passed by respondent No.1 is, therefore, unsustainable in law and facts of the case.

11. In the result, writ petition is allowed in terms of prayer clause "B". The impugned order dated 2<sup>nd</sup> March, 2022 passed by respondent No.1 thereby refusing stay in favour of the petitioners is hereby quashed and set aside. Respondent No.1 is directed to decide the appeal filed by the petitioners within a period of eight weeks from the date of receipt of the writ of this order.

12. Till the appeal is finally decided, the order impugned in the appeal, passed by the Collector, disqualifying the petitioners, shall remain stayed. In the facts, there shall be no order as to costs.

**[NITIN B. SURYAWANSHI]**  
**JUDGE**

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