

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

82 WRIT PETITION NO.6563 OF 2022

BANDU MACHINDRA BHIL AND OTHERS
VERSUS
THE STATE ELECTION COMMISSION THROUGH THE DISTRICT COLLECTOR
AND OTHERS

Mr.M.V. Salunke, Advocate for the petitioners.
Mr.A.B. Kadethankar, Advocate for respondent No.1.
Mr.S.K. Tambe, AGP for the respondent/State.

CORAM : RAVINDRA V. GHUGE &
ANIL L. PANSARE, JJ.
DATED : 27.06.2022

PC :-

01. Leave to correct prayer clauses (C) and (D).
02. The petitioners have putforth prayer clauses (B), (C) and (D), which read as under :-

B) By issuing writ of Certiorari or any other appropriate writ, order or directions, the impugned G.R. dtd. 10.08.2015 issued by the State of Maharashtra may kindly hold and declare as ultra virus and not in consonance with the .

C) By issuing writ of Certiorari or any other appropriate writ, order or directions, the impugned order dated 04.02.2022 passed by the District Collector, Jalgaon in appeal no.44/2021 and order dtd.24.05.2022 passed by the Additional Commissioner, Nashik in Appeal No.19/22 and Appeal No.20/2022, may kindly be quashed and set aside;

D) Pending hearing and final disposal of this petition, the impugned order dated 04.02.2022 passed by the District Collector, Jalgaon in appeal no.44/2021 and order dtd.24.05.2022 passed by the Additional Commissioner, Nashik in Appeal No.19/22, Appeal No.20/2022, may kindly be stayed;

03. The learned Advocate representing the State Election Commission, respondent No.1 herein, places on record a compilation of six pages, which is an election order No.4 on election expenses. The same is marked as "X" for identification.

04. It is undisputed that the appeal against the order of the District Collector would not lie before the Additional Commissioner, Nashik and the petitioners will have to prefer an application before the State Election Commissioner.

05. In view of the above and considering the settled position of law, the impugned order dated 24.05.2022 delivered by the Additional Commissioner, Nashik Division, Nashik under section 14(b)(2) and 16 of the Maharashtra Village Panchayats Act, 1959, is rendered non-est.

06. Therefore, this petition is partly allowed. The order dated 24.05.2022 at Annexure "I", page No.71 of the petition is non-est and, therefore, set aside.

07. The learned Advocate for the petitioners submits, on instructions, that the petitioner would approach the State Election Commissioner for

redressal of the grievance.

08. In the event the petitioners lodge their application before the State Election Commission on or before 01.07.2022, the time spent by the petitioners in this Court from 20.06.2022 till the passing of this order, would be a good ground for condonation of delay. They are also at liberty to file an Application for interim relief.

[ANIL L. PANSARE,J.]

[RAVINDRA V. GHUGE,J.]