

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

WRIT PETITION NO.11867 OF 2021

VANDANA GANESH WAGH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioner : Shri Thombre S.S.
AGP for Respondents 1 to 3 : Shri A.A. Jagatkar
Advocate for the added Respondent 5 : Shri S.S. Gangakhedkar

...

CORAM: SMT. BHARATI H. DANGRE, J.

DATE :- 11th January, 2022

Per Court:

1. Heard the learned counsel for the petitioner and the learned AGP for respondent Nos.1 to 3. The petitioner came to be elected as a member of the Gram Panchayat, Balapur, Taluka and District Aurangabad and subsequently, elected as the Sarpanch pursuant to the elections held in 2021.

After the petitioner being declared as elected, the defeated candidate filed the proceedings before the District Collector, Aurangabad, seeking her disqualification on the ground that on account of her failure to submit the election expenses for the election, which she contested in the year 2015, she was disqualified by the order passed by the Collector on 17/23.02.2016. The said order further imposed a disqualification for a

period of five years on the candidates so disqualified and prohibited them from contesting the elections for the next five years. The period of five years being not expired, her election is called in question by filing the proceedings before the Collector.

2. The submission advanced on behalf of the petitioners is to the effect that the petitioner contested the election held in August, 2015, the result of which was declared on 06.08.2015 and the petitioner did not succeed in getting herself elected as a member. On 23.09.2015, the notice was issued to the petitioner under the signature of the Collector directing her to submit the election expenses within a period of 30 days as per the mandate of law. On 03.11.2015 i.e. on expiry of the period of 30 days, the petitioner submitted an explanation to the Collector stating that she was not conscious of the position of law that even the defeated candidate has to submit the election expenses and therefore, requesting to condone the delay, she tendered the details of expenses incurred by her in the said election.

The specific plea of the petitioner is that, thereafter, she did not hear anything from the Collector and it is only when an objection is raised to her candidature and her election as a member and subsequently, as the Sarpanch in the year 2021, she has become aware of the order passed by the Collector on 17/23.02.2016.

3. The learned counsel for the petitioner has placed reliance on

two orders passed by this Court in respect of the candidates, who came to be elected and disqualified under the common order passed by the Collector on 23.02.2016 and by observing that there was no adherence to the principles of natural justice, this Court set aside the orders qua the said candidates and they have been directed to be reinstated.

4. When an explanation is sought on behalf of the Collector as to whether, the petitioner was noticed before passing the order disqualifying her and whether, she was heard, the learned AGP is not able to render any assistance and he seeks sometime.

5. Since the learned counsel for the petitioner states that the Collector has slated the hearing of the proceedings instituted by one Nilabai Manohar Khade, the defeated candidate, seeking disqualification of the petitioner, in afternoon session today, the Collector, Aurangabad is directed not to proceed with the said hearing till the Writ Petition is heard by this Court. Renotify this petition to 28.01.2022.

6. The learned AGP shall communicate this order passed in the open court to the learned Collector, Aurangabad.

7. The learned counsel Shri Gangakhedkar waives service on behalf of the newly added respondent No.5.

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

CIVIL APPLICATION NO.13610 OF 2021
IN
WRIT PETITION NO.11867 OF 2021

NILABAI MANOHAR KHADE
VERSUS
VANDANA GANESH WAGH AND OTHERS

...
Advocate for the Applicant : S.S. Gangakhedkar
Advocate for the original Petitioner : Shri Thombre S.S.
AGP for the Respondents/ State : Shri A.A. Jagatkar
...

CORAM: SMT. BHARATI H. DANGRE, J.

DATE :- 11th January, 2022

Per Court:

1. The present Civil Application seeks intervention by one Smt.Nilabai Manohar Khade, who is the complainant and who has instituted the proceedings before the Collector, Aurangabad for seeking disqualification of the petitioner on the ground that on account of non submission of the election expenses, the Collector vide his order dated 17/23.02.2016 has already disqualified the petitioner and has also imposed an embargo for not contesting the election for next five years.
2. Heard the learned counsel for the intervener and the petitioner.
3. Since the proceedings against the present petitioner are

initiated at the instance of the applicant/ intervener, she is necessary party for effective adjudication of the writ petition. Civil Application, therefore, deserves to be granted and the applicant/ intervener is directed to be impleaded as respondent No.5 in the Writ Petition.

4. The Civil Application is made absolute in the above terms. Necessary amendment be carried out forthwith.

kps

(SMT. BHARATI H. DANGRE, J.)