

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

973 WRIT PETITION NO.2664 OF 2020
WITH CA/11133/2023 IN WP/2664/2020 WITH CA/11132/2023 IN WP/
2664/2020

KURESHI ABDUL RAFIQ ABDUL RAHIM
VERSUS
THE ADDITIONAL COMMISSIONER AURANGABAD AND OTHERS

...
Advocate for Petitioner : Mr. Kawade Shrikant G
AGP for Respondents-State : Mr. N. T. Bhagat
Advocate for Applicant in CA/11133/2023 : Mr. V. S. Sakhare h/f Mr.
S. A. Ambad
Advocate for Applicant in CA/11132/2023 : Mr. T. G. Gaikwad

...
CORAM : ARUN R. PEDNEKER, J.
DATE : 08/09/2023

PER COURT :

Heard the learned Advocate representing the respective parties.
By the present writ petition the petitioner is challenging the orders passed by the Collector and the Appellate Authority disqualifying the petitioner for six years from the date of the order. The learned Advocate has produced before me the Judgment in *Laxmibai Versus the Collector, Nanded and Ors.*, [Civil Appeal No.1622 of 2020 (Arising Out of SLP (CIVIL) No.16837 of 2019)], decided on 14/02/2020, by the Hon'ble Supreme Court, whereby the Hon'ble Supreme Court at paragraph No.20 has held as under :-

"20..... 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..."

2. In the instant case, the petitioner is disqualified for the period of six years from the date of the order. There are no reasons given as to why disqualification is for the period of six years from the date of the order.

3. The matter would thus stand remitted to the authority in terms of the directions issued at paragraph No.44 of the Judgment in *Laxmibai (Supra)*, which runs as under :-

"44. Consequently, the order passed by the Collector on 3rd November, 2014 and subsequent orders in appeal and in the writ petition are set aside in part to the extent of prescribing disqualification for a period of five years and the matter is remitted to the Collector to take into consideration the nature of default, the purport for which the election expenses are sought to be furnished and that the order of disqualification operates from the date of the order including delay in passing the order of disqualification. The Collector shall pass the order afresh in respect of period of disqualification in accordance with law preferably within a period of one month from the

date of receipt of copy of this judgment. The period of disqualification, if any, will be operative from the date of the order passed earlier by the Collector on 3rd November, 2014 and that any elections held as a consequence of the order of disqualification will abide the final order to be passed by the Collector.”

4. In view of the above, the orders passed by both the authorities are confirmed to the extent of disqualification, however for determining what should be the period of disqualification, the matter is remitted back to the Collector in terms of the paragraph No.44 of the Judgment in Laxmibai (Supra).

5. On the production of the order passed by this Court, the Collector to decide the same within a period of three (3) months.

6. The parties to appear before the Collector on 06/10/2023. The learned AGP to forward this order to the learned Collector so as to enable him to pass an appropriate order.

7. In view of the above, the writ petition is disposed of. Pending applications stand disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.