

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 12477 OF 2021
IN
ELECTION PETITION NO. 23 OF 2019

MEGHANA DEEPAK SAKORE ALIAS BORDIKAR
VERSUS
VIJAY MANIKRAO BHAMBLE

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Mr. P.R. Katneshwarkar, Advocate for applicant.
Mr. V.D. Salunke, Advocate for the respondent.

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CORAM : KISHORE C. SANT, J.

DATE : 18th OCTOBER, 2023

PER COURT:

1. Heard the parties.
2. This application is filed seeking condonation of delay in filing civil application and with a further prayer to recall the order dated 08.03.2021 passed in the election petition directing petition to proceed ex parte as the applicant could not submit written statement within time.
3. It is the case that, though applicant was served with the summons on 20.03.2020, immediately thereafter National Lockdown was imposed in view of Covid-19 from 24.03.2020. The applicant had instructed the advocate to appear in the

matter by filing the vakalatnama. However, because of severe restriction on the movements, advocate could not file the vakalatnama and since no vakalatnama was filed his appearance was not be shown on the board and thus listing of the matter was not noticed. This Court thereafter passed an order on 08.03.2021 to proceed ex parte. After the order of ex parte was passed, petitioner in the petition even filed evidence affidavit on 06.10.2021. Thereafter, the matter was kept on 27.10.2021 for examination. On that day, learned advocate for the applicant informed the Court that he has received instructions to appear on behalf of applicant. Till that time, matter was listed on six dates. However, the applicant could not appear and this application came to be filed on 16.11.2021.

4. It is the case of the applicant that the delay is not deliberate but is wholly on account of the fact that applicant could not get the knowledge of the order immediately and he was also not aware of the dates in the proceeding. He further submits that written statement is ready and same shall be filed immediately.

5. Learned advocate Mr. V.D. Salunke vehemently opposes the application stating that applicant is elected

representative and he is supposed to be vigilant. When service of summons was effected on her it was her duty to appear in the Court. She has deliberately not appeared before the Court and allowed this Court to pass ex parte order. Even, thereafter she waited till the stage of recording evidence of the petitioner. In the meanwhile, the matter was listed on six dates. He submits that by playing such delaying tactics, applicant is only killing the time. She is elected for a term of five years. He submits that on 27.10.2021, when this petition was on board, this Court has observed that petitioner is personally present for verification on 27.10.2021. On that date for the first time, advocate informed the Court that he has received the vakalatnama, however, was not ready with the vakalatnama, though in the averment in the application it is stated that vakalatnama was already given to the advocate. He submits that at least from the date of application it was expected of the applicant to be ready with the written statement which is not still filed. He therefore submits that the application is liable to be rejected.

6. Looking to the nature and gravity of the matter and the fact that applicant is elected representative, this Court finds that fair opportunity needs to be given to the applicant to

contest the election petition. It is not only a question of individual's right to hold the post, but it is the question of representative of people and for that also liberal approach needs to be taken. At the same time, this Court consider that after the service is effected, it is for the litigant to be vigilant and to keep watch on the proceeding and to appear at the earliest. This is expected all the more from the public representative who are expected to be responsible citizen and must show respect to the Court proceeding. In this view of the matter, this Court finds that after handing over the vakalatnama, the applicant has not bothered to make any further inquiry with the advocate. This Court feels that the approach of the applicant is casual in prosecuting the proceeding.

7. Keeping in view the nature of proceeding and the right of the applicant and at the same time, approach of the applicant, ends of justice can be met by allowing the application by imposing cost of Rs. 50,000/- on the applicant. It is further expected of the applicant to be prompt and not to pro long the matter further. Hence, the following order:

ORDER

- (i) Civil application is allowed subject to the cost of Rs. 50,000/- to be deposited in this Court within two weeks from today along with written statement.
- (ii) Civil application stands disposed of.

[KISHORE C. SANT, J.]