

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10541 OF 2023

Areef Gaphur Maniyar ...Petitioner
Versus
The District Collector Office of District Collector ...Respondents
Raigad & Ors

WITH
WRIT PETITION NO. 10542 OF 2023

Areef Gaphur Maniyar ...Petitioner
Versus
The District Collector Office of District Collector ...Respondents
Raigad & Ors

Mr CG Gavnekar, with Ashutosh Gavnekar & Rohit Parab, for the
Petitioners in both WPs
Mr AA Alaspurkar, AGP, for the Respondent-State in both WPs.
Ms Aditi Athawale, i/b, Vaidehi Pradeep, for Respondent No. 2 in both
WPs.

CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 3rd October 2023

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1. In a local election, the 3rd Respondent not only defied a party whip issued by the Petitioner but went a step further. She not only

did not vote for the candidate as directed by the whip but stood for election herself. In this endeavour she was entirely successful: she was elected. The Petitioner complained about disobedience of the whip, and the 3rd Respondent was held to be disqualified under the Maharashtra Local Authority Members Disqualification Act, 1986 read with the corresponding Rules. At that time, there was no appeal. Then, by an amendment act of 2021, an appeal came to be provided in the Act. The 3rd Respondent filed an appeal against the order disqualifying her. Hence the prayers in the Petition, some of them decidedly ambitious:

“(a) by a Writ of Mandamus or writ, order or direction of similar nature, your Lordships be pleased to quash and set aside the Impugned Order No. MUN-2023/PRA.KRA.73/NAVI-15 dated 9th August 2023 passed by Respondent No.4 and annexed at Exhibit “F” hereto.

(b) Writ of Mandamus or writ, order or direction of similar nature, your Lordships be pleased to direct Respondent No.4 not to entertain the Appeal preferred by Respondent No.3 against Disqualification Order dated 4th August 2023 passed by Respondent No.1 in Disqualification Petition No. 4 of 2022”.

2. Obviously, the appeal filed by the 3rd Respondent will have to be heard. Mr Gavnekar’s apprehension is that the appeal will simply be kept pending until the next elections are due thus rendering the appeal and this Writ Petition entirely infructuous.

3. Consequently, we direct that the appeal filed by the 3rd Respondent against the disqualification order of 4th August 2023

passed by the District Collector, Raigad is to be heard and finally disposed of at the earliest possible and, preferably, within 16 weeks from today. The Petitioner will be entitled to be heard at the hearing of the appeal.

4. We take it that neither the Petitioner nor especially the 3rd Respondent will seek long adjournments. It is for the appellate authority to decide whether to accept concise written submissions not exceeding three pages each or not.

5. All contentions before the appellate authority are kept open.

6. The Writ Petition is disposed of in these terms. There will be no order as to costs.

(Kamal Khata, J)

(G. S. Patel, J)