

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR**

**Writ Petition No.142/2023**

Raghunath V the State of Maharashtra and others

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders

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Mr. P.M. Sinha, Adv. for petitioner.

Mr. N.R. Patil, AGP for resp. nos. 1, 3 and 4.

**CORAM : AVINASH G GHAROTE, J.**

**DATE : 07-01-2023**

Heard Mr Sinha, learned Counsel for the  
petitioner and Mr Patil, learned AGP for respondent nos.1, 3  
and 4.

2. The petition questions the order dated 05-12-22 by the respondent no.2/the Election Commissioner Maharashtra, whereby the order dated 05-08-22 disqualifying the respondent no.5, from contesting the elections for a period of 5 years, for not submitting the election expenses for the election to the Gram Panchayat Navegaon Bandh for which the elections were declared on 26-10-17 has been modified and the period of disqualification reduced to the expiry of the term of the Gram Panchayat.

3. Mr Sinha, learned Counsel for the petitioner contends that since the order of disqualification dated 05-08-22 indicated disqualification for the period of 5 years from the order, the respondent no.5, was not entitled to

contest the elections for the Gram Panchayat Navegaon Bandh to be held on 18-12-22 and the respondent no.2, ought not to have reduced the period of ban by the impugned order, as it is the admitted position that the election expenses were never submitted by the respondent no. 5 as is recorded by the respondent no. 2 in his order dated 05-12-22 (pg 21). He therefor submits that though the elections have already been held on 18-12-22, the results declared therefore in which the respondent no. 5 has been elected and the petitioner is the candidate defeated having the second highest vote, the impugned order is coming in the way of the petitioner in getting elected and is required to be quashed and set aside.

4. The respondent no.5 had contested the elections to the Navegaon Bandh Gram Panchayat, the results of which were declared on 26-10-17. Since the election expenses were not submitted by him by the order dated 05-08-22, he was debarred from contesting the elections for a period of 5 years, which was challenged before this Court in WP No. 7096/22 which came to be dismissed by order dated 15-11-22. The Honble Apex Court in Civil Appeal No(s)-----/2022 (Arising from SLP(C) No(s).21172/2022) by an order dated 02-12-22 has permitted the respondent no.5 to file his nomination on 02-12-22 and also permitted him to make an application u/s 14-B (ii) of the Maharashtra Village Panchayats Act, to the State Election Commission, in pursuance to which the impugned order dated 05-12-22 has been passed.

5. The purpose behind Section 14-B of the said Act, empowering the State Elections Commission to disqualify the candidate or elected member for a period of 5 years, for not submitting the election expenses appears to be that from the date of the elections, for the duration of the term so that the such candidate or elected representative ought not to function or recontest for such duration.

6. In the instant case, the election to the Gram Panchayat Navegaon Bandh were declared on 26-10-17 and a period 5 years has already expired therefrom and the respondent no.5 has not contested any election for the entire term. The ban to contest the election ought to be considered in a pragmatic manner and held to be applicable for the entire duration of the term for which the election is held, otherwise it would result in a ban, which would extend beyond the term and thereby deprive the candidate from contesting the further election. The delay in the instant manner had occurred on part of the Election Commissioner in passing the order dated 05-08-22 which was in respect of the election results which were declared on 26-10-17 and such delay cannot have the effect of preventing a candidate from contesting for the next term of the Gram Panchayat as and when the elections are declared.

7. The learned Election Commissioner is correct in observing that the order of disqualification dated 05-08-22 practically has the effect of banning the respondent no. 5 for a period of 10 years which ought not to be held to be permissible u/s 14-B (1)(b) of the MVP Act. Respondent

no. 2, in my considered opinion, was correct in exercising the power u/s 14-B(2) to reduce the ban till the expiry of the term of the Gram Panchayat Navegaon Bandh that is till 08-11-22.

8. I do not see any reason to interfere in the impugned order of respondent no.2. The petition is therefore dismissed. No costs.

JUDGE