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wp 6416.24 f.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6416 OF 2024

1. Manisha Rajendra Mahajan,
Age 47 years, Occ. Household,
2. Mohini Vinod Mahajan,
Age 40 years, Occ. Household,
3. Madhuri Mangal Sonawane,
Age 38 yaers, Occ. Household,
All r/o. Utran, Tq. Erandol,
Dist. Jalgaon.

.. PETITIONERS.

Versus

1. The State of Maharashtra
through its Secretary,
Rural Development Department,
Mantralaya, Mumbai-32.
2. The State Election Commission,
Maharashtra, New Administrative Bhavan,
Madam Cama Road, Mumai 400 032.
3. The Collector,
Jalgaon, Dist. Jalgaon.
4. The Tahsildar,
Erandol, Tq. Erandol
Dist. Jalgaon.
5. Dnyaneshwar Bajirao Mahajan,
Age major, Occ. Agri.
r/o. Utran, Tq. Erandol
Dist. Jalgaon.

.. RESPONDENTS.

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Mr. Vinod P. Patil, Advocate for the petitioners.
Mr. S.N. Kendre, AGP for respondent State.
Mr. Ajit B. Kadethankar, for respondent No.2 – Election Commission,
Mr. Avinash N. Patil Barhate for respondent No.5.

CORAM : S.G. CHAPALGAONKAR, J.

**RESERVED ON : 8TH JULY, 2024.
PRONOUNCED ON : 15th JULY, 2024.**

JUDGMENT :-

1. Heard. Rule. Rule made returnable forthwith. Heard finally by consent of learned advocate for the parties.

2. The petitioners are impugning the order dated 31st May, 2024 passed by the State Election Commission, Maharashtra State, in Special Application No. 6 of 2024 as well as the order dated 15.3.2024 passed by District Collector Jalgaon in Gram Panchayat Dispute No. 163 of 2023.

3. Mr. Vinod Patil, learned advocate for the petitioners submits that the petitioners were elected as members of Village Panchayat, Utaran, Taluka Erandol, Dist. Jalgaon on 18.1.2021. As per the provisions of Section 14(B)(1) of the Maharashtra Village Panchayat Act, 1958 (hereinafter referred to as “Village Panchayat Act” for sake of brevity) read with directives issued by the State Election Commission, the candidate at an election requires to maintain account of his expenses and furnish the details of such expenses alongwith the affidavit with the Tahsildar within prescribed period of 30 days from the date of declaration of result of the election. Mr. Patil submits that the petitioners

have submitted such details. However, respondent No.5 complained before Collector that petitioners have failed to comply with the obligation in terms of the orders issued by the State Election Commission. And the provisions of Section 14(B)(1) of the Village Panchayat Act.

4. The Collector, Jalgaon entertained such application and after hearing the parties, disqualified petitioners upholding the charge. Mr. Patil would submit that the default on the part of the petitioners was unintentional. In fact, they have submitted the election expenses, but, they failed to file supporting affidavit. That itself, could not have been capitalized to unseat the petitioners from the elected office.

5. Mr. Patil would submit that the petitioners had approached the State Election Commission vide Application NO. 6 of 2024. However, their application was partly allowed bringing down the disqualification period to the extent of present term, with the rider that they shall not be eligible to contest the bye-elections, if any, held before next general elections.

6. Per contra, Mr. S.N. Kendre, learned AGP and Mr. Avinash Barhate Patil appearing for respondent No.5 support the impugned orders.

7. Section 14(B) of the Maharashtra village Panchayat Act, reads thus :-

*“14B. Disqualification by State Election Commission.-
(1) If the State Election Commission is satisfied that a
person,-*

*(a) has failed to lodge an account of election expenses within the time and **in the manner required by the State Election Commission, and***

(b) has no good reason or justification for such failure, the State Election Commission may, by an order published in the Official Gazette, declare him to be disqualified and such person shall be disqualified for being a member of panchayat or for contesting an election for being a member for a period of five years from the date of this order.

(2) The State Election Commission may, for reasons to be recorded, remove any disqualification under sub-section (1) or reduce the period of any such disqualification."

8. Having considered the submissions advanced in the light of aforesaid provision, it is not disputed by the petitioners that although they have submitted details of election expenses within stipulated period, no supporting affidavit was tendered affirming that true and correct information has been tendered without suppression of expenses. Section 14(B)(1) of the Village Panchayat Act prescribes for disqualification of member of the Village Panchayat in case, he violates the mandate requiring him to file election expenses in prescribed format and in the manner prescribed for that purpose. As such, the petitioners were expected to furnish details of the expenses alongwith affidavit complying

with the aforesaid requirements.

9. Mr. Kadethankar, learned advocate for respondent No.2 – State Election Commission, brings to the notice of this court various orders issued by the State Election Commission prescribing the mode and manner of maintainance of account and furnishing details of such accounts. Order dated 15.10.2016, particularly, clause (iii) of para.3 mandates that the candidate shall furnish the election expenses alongwith affidavit containing statement that there is no suppression of expenses and particulars of expenses are true and correct. He would also invite attention o this Court to the judgment of the Supreme Court of India in the matter of ***Laxmibai vs. Collector, Nanded and others reported in 2020 AIR SCW 3393*** to contend that the disqualification on the basis of default in furnishing election expenses in the manner prescribed under orders of the Election Commission, has been approved.

10. Pertinently, this court has dealt with similar situation in the case of ***Bhimraj Namdeo Chattar vs. Additional Divisional Commissioner and others, reported in 2022 DGLS (Bom.) 4825***, wherein this Court observed as under :-

“14. It is a matter of record that the petitioner though has submitted election expenses with the Tahsildar, he has failed to submit affidavit in Proforma in Form No. 2 giving total amount of expenses and supporting affidavit. The Tahsildar has submitted report on 9th March, 2021 to the effect that the petitioner has submitted account of daily expenses, however, has not filled form and the affidavit.

15. In view of section 14-B(1)(a) of the said Act, the petitioner was required to submit Form No. 2 and affidavit in Form No. 3 within the stipulated time of 30 days, which the petitioner has failed to submit. In that view of the matter, the Collector was justified in disqualifying the petitioner from holding the post of Sarpanch for non compliance of section 14-B of the said Act. In this view of the matter, it is not possible to accept the contention of the petitioner that it was merely a technical defect and the petitioner ought to have been given an opportunity to rectify the technical defect and to do the compliance, by submitting form No. 2 and affidavit in support of the same.”

11. Applying the aforesaid principles to the facts of the present case, no fault can be found in the impugned orders, particularly when the State Election Commission has already reduced the period of disqualification of the petitioners for remaining period of present term of Gram Panchayat only, although Section 14(B) of the Village Panchayat act enables the State Election Commission to dis-qualify defaulting candidate/member for a period of 5 years from the date of the order, exercise of powers conferred under sub-clause (2) of Section 14(B) of the Village Panchayat Act. In that view of the matter, no case is made out for interference under Article 227 of the Constitution of India. Hence, writ petition fails and same is accordingly dismissed. Rule is discharged. No costs.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-