



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.299 OF 2023

1. Sharad S/o Namdeo Pawar,
Age: 37 yeras, Occ: Agriculture
2. Gopal S/o Trimbak Patil,
Age: 39 yeras, Occ: Agriculture
3. Hemand s/o Eshwar Patil
Age: 36 years, Occ: Agriculture,
All R/o. Karmad (Khurd),
Tq. Parola, Dist. Jalgaon.

..Petitioners

Versus

1. The District Collector,
Jalgaon, Tq. & Dist. Jalgaon.
2. The State Election Commission,
Maharashtra, through
State Election Commissioner.
3. Bandu s/o Machindra Bhil
Age: 31 years, Occ: Agriculture,
4. Nitin S/o Ashok Patil
Age:45 years, Occ: Agriculture,
5. Ramkrishna S/o Prakash Patil
Age: 35 years, Occ: Agriculture,
6. Rajashree W/o Anil Patil
Age: 33 years, Occ: Agriculture,

Respondent No. 3 to 6 are
R/o. Karmad (khurd),
Tq. Parola, Dist. Jalgaon.

..Respondents

....

Mr. R. N. Dhorde, Senior Advocate i/by Mr. V. R. Dhorde, Advocate
for Petitioners.

Mr. S. N. Kendre, AGP for Respondent Nos.1 and 2.

Mr. Nitin Jagadale h/f Mr. V. D. Salunke, Advocate for Respondent
Nos.3 to 6.

Mr. Sanjay S. Dudhane h/f Mr. S. P. Nimbalkar, Advocate for
Respondent No.7.

...

CORAM : S. G. CHAPALGAONKAR, J.
DATED : 25th JULY 2024.

ORDER:-

1. The petitioners impugn order dated 30.09.2022 passed by respondent no.2-State Election Commissioner in Special Application No.4/2022, thereby setting aside order dated 04.02.2022 passed by respondent no.1-District Collector, Jalgaon disqualifying respondent nos.3 to 6 being member of Village panchayat under Section 14-(1)(a)(b) of the Maharashtra Village Panchayat Act, 1959 (for short 'the Act, 1959').

2. Mr. Dhorde, learned Senior Advocate appearing for petitioners submits that on complaint made by petitioners, disqualification proceeding was initiated against respondent nos.3 to 6 in terms of Section 14-(1)(a)(b) of the Act, 1959 as they had failed to submit election expenses within a period of thirty days as prescribed under law. The Tahsildar, Parola submitted report dated 03.06.2021 and certified non-submission of election expenses within stipulated period. Consequently, District Collector, Jalgaon had passed disqualification order dated 04.02.2022 against respondent nos.3 to 6. They had challenged the said order before Additional Commissioner, Nashik Division, Nashik, who was pleased to partly allow the Appeal and remit matter back to the District Collector with direction to specify period of disqualification and pass fresh order.

3. The respondent nos.3 to 6 filed Writ Petition No.6563/2022 before this Court assailing order of Additional Commissioner. This Court held that the order of Additional Commissioner is non-est being without jurisdiction. However, clarified that an application can be filed before State Election Commission against

disqualification order passed by District Collector. Consequently, respondent nos.3 to 6 preferred Special Application No.4/2022 before the State Election Commissioner. On 30.09.2022, the State Election Commissioner allowed Special Application No.4/2022 and condoned the delay of two days in submission of election expenses in light of observations of the Supreme Court of India in case of ***Laxmibai Vs. The collector, Nanded & Others***¹.

4. Mr. Dhorde, Senior Advocate would further submit that although modification in period of disqualification could have been considered by the State Election Commissioner looking to the short period of default in submission of election expenses, some penalty ought to have been imposed. However, State Election Commissioner has completely exonerated respondent nos.3 to 6, which is contrary to the spirit of statutory scheme.

5. It is pertinent to note here that the Supreme Court of India in case of ***Laxmibai*** (supra) observed that State Election Commissioner can exercise his discretion and remove any disqualification for reasons to be recorded. In present case, there is delay of hardly one or two days in submission of election expenses and default is unintentional. Consequently, State Election Commissioner in exercise of his discretion, quashed and set aside the order passed by District Collector and removed disqualification of respondent nos.3 to 6.

6. It is trite that, when Election Commissioner has exercised his jurisdiction within statutory parameters in tune with guiding principles laid down by the Supreme Court, this Court would be slow in interfering with such decision in Writ jurisdiction.

¹ 2020 (6) LL MR 648.

7. Hence, there is no merit in Writ Petition. Writ Petition stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/July-2024