



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 676 OF 2024 WITH
WRIT PETITION NO. 677 OF 2024

Nandini Dattu Chikhale

VERSUS

The State Election Commission Maharashtra Through
Election Commissioner And Others

- Mr. D. J. Ghodake & Mr. A. T. Jagtap, Advocates for the Petitioner
- Mr. A. B. Kadethankar, Standing Counsel for Respondent No. 1
- Mr. V. S. Badakh, AGP for Respondent Nos. 2 & 3
- Mr. M. K. Bhosale h/f Mr. G. R. Jadhav, Advocate for Respondent No. 4

CORAM : KISHORE C. SANT, J
DATE : SEPTEMBER 24, 2024

PER COURT :

1. Heard the parties for some time.
2. By way of impugned order, the State Election Commission has quashed and set aside the order passed by the Collector, Dharashiv dated 04.08.2023 by which Respondent No. 4 is declared disqualified under Section 14(b) of the Maharashtra Village Panchayat Act (for short '**the Act**'))
3. The disqualification proceeding under Section

14(b) of the Act was taken by the Petitioner against Respondent No. 4 for non submission of the election expenses in the election held for the Grampanchayat in the year 2015 for term till 2022. The Collector, Dharashiv passed an order dated 04.08.2023 holding Respondent No. 4 disqualified for the period of five years. The said order was carried to the State Election Commission, Maharashtra by Respondent No. 4 by way of filing Special Application No. 24(2) of 2023 under Section 14(d)(2) of the Act. Sub-section 2 of Section 14(d) provides a power to the State Election Commissioner to remove disqualification under sub-section 1 or reduce the period of any such disqualification. Section 14(d) reads as below:

14. Disqualifications

(1) No person shall be a member of a panchayat continue as such, who-
(d) has been removed from office under sub-section (1) of section 39 and a period of six years has not elapsed from the date of such removal, unless he has, by an order of the State Government notified in the Official Gazette, been relieved from the disqualification arising on account of such removal from office.

4. The Respondent No. 1 considered the application. It is observed that the Collector himself has passed an order after the term was over in 2022 and in view of that it is held that the Collector has committed error by passing impugned order of disqualification. By way of impugned order, application was allowed and the order passed by the Collector, Dharashiv was quashed and set aside.

5. Being aggrieved by this order, the Petitioner has approached this Court. It is the case of the Petitioner that after Collector had rightly passed an order disqualifying the Respondent No. 4 from contesting the election for non submitting the expenses of election, the State Election Commissioner by passing impugned order has committed illegality. Going by wording of section 14(b)(1), he submits that the disqualification starts from the day the order is passed by the Collector. Here a clear case is made out that the Respondent No. 4 failed to submit the election expenses and still is now occupying the office in the second term.

6. Learned Advocate Mr. Kadethankar for the State Election Commission submits that the State Election Commission has every power to remove said disqualification and/or to reduce the term of said disqualification. He further submits that the order passed by the Collector itself was after the term of Respondent No. 4 was over and the such order was meaning less on the date of passing of the order itself. By that time, the term of office of Respondent No. 4 was already over. There is no illegality committed by Respondent No. 1 while passing the order. Looking by the powers which is vested in the Commissioner, no interference is required.

7. Mr. Bhosale, learned Advocate for Respondent No. 4, also supports the order. He submits that only declaring someone disqualified is a drastic action. In the present case, passing such order after expiry of term is certainly illegal. By the time the Collector passed the order, another terms had started. He submits that the State Election Commission has rightly passed the order.

8. Learned AGP also supports the order and prays for passing appropriate order.

9. After going through record, it appears that the State Election Commission has fully exercised discretion and power vested with it under Section 14(b) (2) of the Act. However, reading of the order gives an impression that the order of the Collector is quashed and set aside. Instead of setting aside the order, the order could have been modified. The order of the Collector is otherwise legal and no illegality is found. The only thing is that it should have been passed before expiry of the term of the Grampanchayat so as to maintain efficacy of the provision. From the record, it is clear that the Respondent No. 4 could not give the expenses and, therefore, the Collector has rightly passed the order.

10. The learned Advocate for the State Election Commission has also placed on record the judgment passed by the Hon'ble Supreme Court reported in MANU/SC/0191/2020 in the case of Laxmibai vs. The Collector, Nanded and Ors. The Hon'ble Supreme Court in

paragraph 20 has held thus-

20. The disqualification of a candidate for five years passed Under Section 14B of the 1959 Act leads to disqualification for future election as well. Though, Section 14B of the 1959 Act empowers the Commission to disqualify a candidate for a period not exceeding five years from the date of the order, but to pass an order of disqualification for five years, which may disqualify him to contest the next elections as well requires to be supported by cogent reasons and not merely on the fact of not furnishing of election expenses. We find that the order of disqualification for a period of five years is without taking into consideration the extent of default committed by the Appellant and that the will of people is being interfered with in the wholly perfunctory way. We find that such mechanical exercise of power without any adequate reasons, though required to be recorded, renders the order of disqualification for a period of five years as illegal and untenable. It is abdication of power which is coupled with a duty to impose just period of disqualification. Therefore, though the Appellant could be disqualified for a period upto five years, but we find that such period of disqualification must be supported by tangible reasons lest it would border on being disproportionate.

11. Thus, keeping in mind the observations made by

the Hon'ble Supreme Court in case of **Laxmibai** (supra) this Court find that the State Election Commission has rightly exercised its powers. The view taken by this Court is as per the judgment cited supra. In view of this, this Court is only modifying the order passed by the Collector by removing disqualification of the Respondent No. 4.

12. With this, Petitions stand disposed of.

(KISHORE C. SANT, J.)