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

WRIT PETITION NO. 3447 OF 2023

(Smt. Sanjiwani Ranjitrao Ghuge, Member, Gram Panchayat, Udi, District – Washim Vs. The Collector, Washim & Anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. S.M. Vaishnav, Counsel for the petitioner.
Mr. H.D. Futane, A.G.P. for the respondents/State.

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CORAM : ANIL L. PANSARE, J.
DECEMBER 4, 2024

The petitioner contested election of Panchayat Samiti, Washim, from Block No. 53, Village – Jaulka. She has been disqualified for failure to submit election expenses within thirty days, which is the time limit prescribed by the State Election Commission, Maharashtra. The disqualification has been attracted in terms of Section 62A of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (for short “Act of 1961”), which reads thus :

“62A. Disqualification by State Election Commission

(1) If the State Election Commission is satisfied that 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 or for contesting an election for being a member for a period of five years from the date of the 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.”

2] Emphasis of the petitioner is on Clause (b) of sub-section (1) of Section 62A of the Act of 1961, which indicates that if the candidate has good reasons or justification for failure to submit accounts of election expenses within time, the State Election Commission may consider and accept the reasons and justification so given by the candidate for filing accounts belatedly.

3] The powers of the State Election Commission have been delegated to the Collector of the District vide Election Expenses Order No. 4 dated 27/8/2021 issued by the State Election Commission, Maharashtra.

4] The learned Counsel for the petitioner submits that Section 62A of the Act of 1961 will require the State Election Commission or the Collector, as the case may be, to satisfy himself as regards the reasons and justification assigned by the candidate for filing accounts belatedly. In the present case, the Collector, Washim, has delegated powers to the Sub-Divisional Officer, Washim, who has allegedly enquired into the matter and filed report. The report of the Sub-Divisional Officer has been accepted. The learned Counsel further submits that neither the Sub-Divisional Officer nor the Collector has recorded satisfaction as to whether the petitioner has assigned good reasons or justification for failure to submit accounts within time.

5] Thus, it is argued that, firstly the powers, which have been delegated by the State Election Commission to the Collector, could not have been further delegated to the Sub-Divisional Officer, and secondly, the Sub-Divisional Officer also failed to record satisfaction as required under Section 62A(1)(b) of the Act of 1961.

6] The learned A.G.P., though made an attempt to justify the order, failed to point out that Section 62A or any other provision under the Act of 1961 permits the Collector to sub-delegate duties assigned to him by the State Election Commission. The learned Counsel for the petitioner is right in contending that it is for the State Election Commission or the Collector, as the case may be, to satisfy himself as regards the reasons and justification assigned by the candidate for his/her failure to submit accounts within time. This satisfaction could not be recorded by any other person than by the Collector himself. In a given case, the Collector may take assistance of the Sub-Divisional Officer or for that purpose any other officer for conducting enquiry, however, when it comes to recording satisfaction, it has to be by the authority as provided under Section 62A of the Act of 1961 this being quasi judicial function and has far reaching effects. The said provision does not permit further delegation of powers.

7] In the present case, the petitioner has tendered explanation to the effect that she suffered missed/accidental abortion and, therefore, could not furnish accounts within time. The learned A.G.P. submits

that the petitioner has not furnished any document in support.

8] This is a contingency, which, to my mind, would substantiate the case of the petitioner that except for the Collector no other officer is empowered to record satisfaction. The Collector, in such cases may call for documents in support and, thereafter, record satisfaction. It is he alone who should apply his mind and render a finding whether the reason assigned or justification given is acceptable. The Collector, in the present case, however, has delegated this power to the Sub-Divisional Officer which is impermissible, considering the quasi judicial nature of the proceedings. The impugned order is, therefore, unsustainable.

9] In the circumstances, it will be appropriate to remand the matter back to the Collector to consider the same afresh in accordance with law and in the light of what has been stated in the body of the order.

10] Accordingly, the petition is partly allowed. Order dated 26/4/2023 passed by the Collector, Washim, is quashed and set aside. The enquiry is restored on file of the Collector for consideration afresh. The petitioner shall appear before the Collector, Washim, on 26/12/2024.

11] The petition is disposed of in aforesaid terms. No costs.

(ANIL L. PANSARE, J.)

Sumit