



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4684 OF 2024
WITH WRIT PETITION NO. 4663 OF 2024
WITH WRIT PETITION NO. 4651 OF 2024
WITH WRIT PETITION NO. 4661 OF 2024
WITH WRIT PETITION NO. 4660 OF 2024
WITH WRIT PETITION NO. 4659 OF 2024
WITH WRIT PETITION NO. 4664 OF 2024
WITH WRIT PETITION NO. 4648 OF 2024
WITH WRIT PETITION NO. 4681 OF 2024
WITH WRIT PETITION NO. 4698 OF 2024

SAJID KHAN MAJID KHAN
VERSUS
THE DISTRICT COLLECTOR NANDED AND OTHERS

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Mr. P. P. Mandlik, Advocate for the petitioners
Mr. S. N. Kendre, AGP for the respondent/State
Mr. K. N. Shermale and Mr. U. S. Mote, Advocate for respondent No.5 in
respective petitions.

CORAM : R. M. JOSHI, J.

DATE : 06th FEBRUARY, 2025

PER COURT :-

1. These petitions take exception to order dated 23/08/2023 passed by District Collector, Nanded rejecting Grampanchayat Disputes No. CR 17/2023, 18/2023, 19/2023, 20/2023, 21/2023, 22/2023, 23/2023, 24/2023 in respective petitions filed by the petitioners under Section 14 of Maharashtra Village Panchayat Act (for short 'the Act') for declaration of respondent No.5 has disqualified for not submitting the information regarding the expenses incurred during the election of Grampanchayat and in accordance with the rules.

2. District Collector by passing impugned order has rejected the application with observation that the issue sought to be raised by the petitioners is technical in nature and therefore the same cannot be gone into.

3. Learned counsel for the petitioners submits that the District Collector has committed error in appreciating the report submitted by Tahasildar in respect of the election expenses incurred by respondent No.5 in proper perspective and in fact misread it. He drew attention of the Court to the order issued by the State Election Commission which authorized District Collector to decide the issue with regard to the correctness thereof. According to him in the instant case the Tahasildar has submitted report to the Collector by pointing out that the discrepancies therein. It is his submission that the Collector in the impugned order in fact has not even taken into consideration the said report appropriately. Though it is stated in the report by Tahasildar that there appears difference in the signatures on nomination form and affidavit, Collector however, observed otherwise. It is submitted on under Section 16 of the Act, it is the responsibility of the Collector to decide the said issue and hence it is a fit case for setting aside the impugned order and relegating the matter back to the Collector for decision afresh.

4. Learned counsel for respondent No.5 submits that there are

no specific forms provided for the purpose of the submission of election expenses. According to him submission of affidavit within 30 days is sufficient compliance. It is submitted that the Collector has rightly taken into consideration the report of Tahasildar and rendered the findings which according to him do not require interference.

5. Learned AGP has assisted this Court by pointing out relevant provisions of the Act, indicating that once an application is made under Section 14 of the disqualification, it is for the Collector under Section 16 of the Act to decide the same. He drew attention of the Court to the judgment of this Court in case of *Archana w/o Ananda Shembalwad @ Archana D/o Ramji Pillewad Versus State of Maharashtra and others., (2023) 5 Mah LJ 525* to submit that the said issue would not fall for consideration of the Election Commission as the challenge to the election would be limited to the corrupt practices adopted therein.

6. At this stage it would be relevant to take into consideration the provisions of Sections 14 and 16 of the Act which reads thus:-

14. Disqualifications.

- [(1) No person shall be a member of a panchayat continue as such, who-] [This existing section 14 was renumbered as sub section (1) by Maharashtra 34 of 2000, Section 2.]

(a) has, whether before or after the commencement of this Act, been convicted-

xxx

xxx

[(j-4) has been disqualified by the State Election Commission under section 14B; or] [Clause (j-4) was inserted by Maharashtra 16 of 2010, Section 2.]

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14B. *[Disqualification by State Election Commission.] [Section 14B was inserted by Maharashtra 16 of 2010, Section 3.]*

*(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 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.

16. *Disability from continuing as member.*

(1) If any member of a panchayat,-

(a) who is elected or appointed as such, was subject to any of the disqualifications mentioned in section 14 at the time of his election or appointment, or

(b) during the term for which he has been elected or appointed, incurs any of the disqualifications mentioned in section 14,

he shall be disabled from continuing to be a member, and his office shall become vacant.

(2) [If any question whether a vacancy has occurred under this section is raised by the Collector suo motu or an application made to him by any person in that behalf, the Collector shall decide the question as far as possible within sixty days from the date of receipt of such application. Until the Collector decides the question, the member shall not be disabled under sub-section (1) from continuing to be a member.] [This was substituted for the portion beginning with the words 'In every case' and ending with the

words 'from continuing to be a member' by Maharashtra 36 of 1965, Section 10.] Any person aggrieved by the decision of the Collector may, within a period of fifteen days from the date of such decision, appeal to the [Commissioner] [Substituted 'State Government' by Maharashtra Act No. 54 of 2018, dated 13.8.2018.], and the orders passed by the [Commissioner] [Substituted 'State Government' by Maharashtra Act No. 54 of 2018, dated 13.8.2018.] in such appeal shall be final:

Provided that, no order shall be passed under this sub-section by the Collector against any member without giving him a reasonable opportunity of being heard."

7. At this stage it would be relevant to take note of judgment of this Court in case of **Archana w/o Ananda Shembalwad @ Archana D/o Ramji Pillewad** (supra), wherein it is held that;

"24) In the case of Soni w/o. Gajanan Kurkute Vs. Election Officer, Gram Panchayat, taroda and Ors. reported in 2020 (2) Mh.L.J. 941, this Court in para Nos. 16 has held as under :-

"16. I find that if the words 'submitted a false claim or a false caste certificate', were continued under 15(5)(a), the case of the complainant that the petitioner has submitted a false birth certificate, could have been tenable. It is possible that the words 'false claim' could have included a false claim as regards the date of birth of a candidate and if such interpretation is to be arrived at, the case of the complainant could have been covered under section 15(5)(a). However, now that the said words have been deleted, discloses the intent of the legislature in restricting section 15 only to corrupt electoral practices."

. It is thus clear that from these observations that except for the corrupt practices the issues would not fall for consideration in an Election Petition. The provisions of Section 16 of the Act enables Collector to decide the question in respect of vacancy occurred under

Section 14 of the Act.

8. Herein this case the petitioners have filed specific dispute before the Collector invoking provisions of Section 14B of the Act for declaration of respondent No.5 as disqualified for non compliance of Section 14(1) and (2) of the Act. The Collector under Section 16 of the Act is entitled to take cognizance of such complaint. In such circumstances it was obligatory on the part of the District Collector to decide the said dispute. This Court also finds no substance in the contention of the learned counsel for respondent No.5 that no forms are provided for the purpose of submitting the election expenses and therefore the impugned order is justified. The order of the State Election Commission is self explanatory and it also provides for the appropriate forms to submit the election expenses. Herein this case Tahasildar has submitted report dated 17/04/2023 flagging the inconsistencies and discrepancies in the election expenses submitted by contesting respondent.

9. The order of State Election Commission, authorizing Collector to decide the issue r/w provisions of Sections 14 and 16 of the Act, in no uncertain terms cast responsibility on Collector to decide the issue if raised or even suo moto. It would therefore not be open for the said authority to shirk its responsibility.

10. The District Collector therefore has committed error in not exercising his jurisdiction under Section 16 of the Act. There would no be justification for the District Collector to state that the issue involved is of technical in nature and therefore he cannot go into the same. This is contrary to the provisions of Section 16 of the Act read with the order issued by the State Election Commission.

11. Since there is non exercise of the jurisdiction by the District Collector, so also incorrect findings are recorded in respect of the report of the Tahasildar, it is a fit case to set aside the order impugned and to relegate the matter back to the District Collector for decision afresh. Hence, petitions stand allowed.

12. The Grampanchayat Disputes are relegated back to the District Collector, Nanded for decision afresh. In view of provision of Section 16(2) of of the Act, District Collector to decide the same in accordance with law within a period of two months from today.

13. Petitions stand allowed in above terms.

(R. M. JOSHI, J.)

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