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955-WP-5735-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

955 WRIT PETITION NO. 5735 OF 2025

Manisha Vijaysingh Gusinghe

VERSUS

State Of Maharashtra Through The Principal Secretary And Others

...

Mr. Ravindra Vitthal Gore, Advocate for the Petitioner.

Mr. K. S. Patil, AGP for Respondent-State.

Mr. G. J. Pahilwan, Advocate for Respondent No.7.

CORAM : KISHORE C. SANT, J.

DATE : 29th APRIL 2025

PC :-

1. Heard Mr. Gore, the learned Advocate for the petitioner, Mr. Patil, the learned AGP for Respondent Nos. 1 to 5-State and Mr. Pahilwan, the learned Advocate for Respondent No.7/Caveator.
2. The main grievance is that though the appeal is preferred before the learned Commissioner, the learned Commissioner has not decided the appeal nor has taken up the stay application for consideration.
3. It is the case of the petitioner that the petitioner is declared as disqualified by the order dated 21st April 2025 by the learned Collector

holding that her election was not properly held by the learned Returning Officer. The petitioner immediately filed an appeal before the Commissioner. However, the learned Divisional Commissioner did not take up the application for stay. The petitioner submits that, after the order of the learned Collector, there is an alternative remedy provided of filing the appeal within 15 days. Authorities were thus expected to stay hands atleast for 15 days. However, on 25th April 2025 in the evening, election program is declared. The same is done only to make the appeal before the Divisional Commissioner as infructuous. He submits that, therefore, it was necessary for the learned Divisional Commissioner to take up stay application immediately. However, the said is not done and, therefore, the petitioner is required to come to this Court.

4. The learned Advocate for the Respondent/Caveator does not dispute the dates. However, he submits that dates of holding election is statutory rights and it cannot be held that the election is declared, therefore, stay cannot be granted to the election.

5. This Court finds that, when the order was passed on 21st April 2025, it was necessary for the authority to atleast stay the application till

the appeal remedy is exhausted for 15 days i.e. till 5th May 2025. It is clear that, the election program is declared. It was also necessary for the learned Divisional Commissioner to take up the stay application immediately on filing of the election petition. However, till today, he has not decided the stay application.

6. Considering above, this Court finds that the petition can be conveniently disposed off without issuing notice to the parties as one of the contesting party has appeared before this Court.

7. The learned Divisional Commissioner, therefore, is directed to decide the Stay Application today itself before the election process which is schedule tomorrow.

8. With this, writ petition stands disposed off.

9. Learned AGP to communicate this order to the learned Commissioner immediately.

10. Parties to act upon authenticated copy of this order.

[KISHORE C. SANT, J.]