



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

5 WRIT PETITION NO. 9893 OF 2025

**MAHESH SHANKARLAL SHANKARPELLI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the Petitioner : Mr.R.V.Gore
AGP for Respondent-State : Mr.S.K.Shirse

...

AND

6 WRIT PETITION NO.9975 OF 2025

**MAHESH SHANKARLAL SHANKARPELLI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the Petitioner : Mr.R.V.Gore
AGP for Respondent-State : Mr.D.R.Korade

...

AND

7 WRIT PETITION NO. 9976 OF 2025

**SAIRABI SHAIKH RAHIM AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the Petitioner : Mr.R.V.Gore
AGP for Respondent-State : Mr.M.K.Goyanka

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 03.11.2025

P.C. :

1] The petitioner in Writ Petition No.9893 of 2025 challenges the impugned order dated 08.10.2022 passed by the Minister, Public Works [including Public Undertaking], Mantralaya Mumbai in Case No.MYN-4423/Pra.Kr.30/Navi-15 and the impugned judgment and order dated 29.04.2022 passed by the District Collector, Chhatrapati Sambhajanagar in Application No.NPP/SILLOD/MC/CASE No.04/2019, whereby the application filed by the petitioner to disqualify the respondent no.5 for making unauthorized construction has been dismissed.

2] The petitioner in Writ Petition No.9975 of 2025 challenges the impugned order dated 08.10.2022 passed by the Minister, Public Works [including Public Undertaking], Mantralaya Mumbai in Case No.MYN-4423/Pra.Kr.29/Navi-15 and the impugned judgment and order dated 29.04.2022 passed by the District Collector, Chhatrapati Sambhajanagar in Application No.NPP/SILLOD/MC/CASE No.07/2019, whereby the application filed by the petitioner

to disqualify the respondent nos.5 and 6 for making unauthorized construction has been dismissed.

3] The petitioner in Writ Petition No.9976 of 2025 challenges the impugned order dated 08.10.2022 passed by the Minister, Public Works [including Public Undertaking], Mantralaya Mumbai in Case No.MYN-4423/Pra.Kr.31/Navi -15 and impugned judgment and order dated 29.04.2022 passed by the District Collector, Chhatrapati Sambhajanagar in Application No.NPP/SILLOD/MC/CASE No.09/2019, whereby the application filed by the petitioner to disqualify the respondent no.5 for making unauthorized construction has been dismissed.

4] Both the Authorities constituted under the Act have held against the petitioners. The petitioners filed application before the Collector under Section 44 (1) (e) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act and the Collector has held against the present petitioners. Against the said orders, the petitioners filed Appeals before the Minister and the

Minister refused to decide Appeals on merits as the term of the respondents had expired. Against the said orders, the present Writ Petitions are filed.

5] The learned counsel for the petitioners relies upon the judgment of the Hon'ble Supreme Court in the case of **Sheo Sadan Singh Vs. Mohan Lala Gautam** reported in [1969] 1 SCC 408 and submits that even if term has expired, cause of action survives.

6] The Hon'ble Supreme Court in para no.5 of the judgment in the case of **Sheo Sadan Singh [supra]** has held as under :

5. We are unable to accept the contention of Mr. Veda Vyasa, learned Counsel for the respondent that the petition must be held to have become infructuous in view of the dissolution of the assembly. In this proceeding we are considering the validity of the election of the respondent and not whether he is continuing as a member. If the contention of the appellant that the respondent was guilty of corrupt practices during the election is found to be true then not only his election will be declared void, he is also liable to incur certain electoral disqualifications. The purity of elections is of utmost importance in a democratic set-up. No one can be allowed to corrupt the course of an election and get away with it either by resigning his membership or because of the fortuitous circumstance of the assembly having been dissolved. The public are interested in seeing that those who had corrupted the course of an election are dealt with in accordance with law. That purpose will stand defeated if we accept the contention of Mr. Veda Vyasa.

In the instant petitions, the petitioners are unable to demonstrate before this Court that the candidates would incur further disqualification beyond the period of the term under the Act.

7] Relevant provision dealing with disqualification i.e. Section 44 (1)(e) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act is noted as under :

44. Disqualification of Councillor during his term of office

(1) A Councillor shall be disqualified to hold office as such, if at any time during his term of office, he-

(e) has constructed or constructs by himself, his spouse or his dependent, any illegal or unauthorised structure violating the provisions of this Act, or the Maharashtra Regional and Town Planning Act, 1966 or the rules or bye-laws framed under the said Acts; or has directly or indirectly been responsible for, or helped in his capacity as such Councillor in, carrying out such illegal or unauthorized construction or has by written communication or physically obstructed or tried to obstruct, any Competent Authority from discharging its official duty in demolishing any illegal or unauthorised structure:]

8] Considering the same, no cause survives in the Writ Petitions and the Writ Petitions are dismissed.

9] The learned counsel for the petitioners further submits that the authorities constituted under the Act ought to have decided his pending applications within a reasonable time so as to avoid petitions being rendered infructuous. He further submits that the authorities i.e. Collector had taken 2 ½ year to decide the application and the Appellate Authority had also taken 6 months to dismiss the Appeals as the term has expired. The learned counsel for the petitioners further submits that the Appellate Authority ought to have decided the same within reasonable time. The grievance of the petitioner may be justified but the reasons for delay are not before me. Also the term of the elected members have expired. This Court thus would not enter into the disqualification issue as there is no further cause left in the matters.

10] The petitioners have not able to point out any provision whereby the respondents disqualifications can be

entertained beyond the elected term. As such, the Hon'ble Minister has rightly refused to adjudicate the appeals on merits.

[ARUN R. PEDNEKER]
JUDGE

DDC