
(2015) 03 BOM CK 0079
In the Bombay High Court
Case No : Writ Petition No. 11295 of 2014

Shakti Balkrishna Mhatre

APPELLANT

Vs

Returning Officer, Panchayat Vindhane and Others

RESPONDENT

Date of Decision : 09-03-2015

Acts Referred:

Citation : (2015) 5 ALLMR 12 : (2015) 3 MhLj 275

Hon'ble Judges : M.S. Sonak, J.

Bench : Single Bench

Advocate : C.G. Gavnekar, for the Appellant

Final Decision : Dismissed

Judgement

M.S. Sonak, J.—This petition challenges the order dated 12th November, 2014 made by the Additional Collector, Raigad declining to disqualify respondent nos. 2, 3 and 4 in exercise of powers delegated to him in terms of section 14B(1) of the Maharashtra Village Panchayat Act, 1959 (Said Act).

2. In this case, elections to the Gram Panchayat took place on 22nd December, 2013 and results were declared on 23rd December, 2013. In terms of the circulars issued by the State Election Commission, the account of election expenses have to be lodged by the candidate within a period of one month from the date of declaration of the results which period in the present case, would expire on 23rd January, 2014. Respondent nos. 2, 3 and 4 lodged account of election expenses on 6th February, 2014 i.e. after the delay of about 15 days or thereabouts.

3. It is the case of the petitioner that the Additional Collector has no power to condone the delay in lodging of account of election expenses and in any case such condonation is not permissible in the proceedings initiated by the petitioner seeking disqualification of the said respondents. The impugned order dated 12th November, 2014, which has condoned such delay, is therefore, without jurisdiction and in any case, the Additional Collector has exercised jurisdiction

with material irregularity.

4. Section 14B of the said Act reads thus :

"14.B. Disqualification by State Election Commission : (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 Stat 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 this 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."

5. There is no dispute that the powers vested in the State Election Commissioner under section 14B(1) have been delegated to the Collector and those under section 14B(2) have been delegated to the Commissioner.

6. If the provisions contained in sub section (1) of section 14B of the said Act are perused, then it is clear that discretion is vested in the authority, in the matter of disqualification of the returned candidates who may have failed to lodge the account of election expenses within the time and in the manner required by the State Election Commission. The provisions cannot be interpreted to mean that the moment there is failure to lodge an account of election expenses within the prescribed period, disqualification results. The Authority exercising the powers under sub section (1) is also empowered to and required to go into the question as to whether there was good reason or justification for the failure. If, the authority exercising the powers under sub section (1) is satisfied that there is failure to lodge an account of election expenses within the prescribed period, and further, the same is without any good reason or justification, then the Authority has the discretion to declare the said returned candidate to be disqualified for being a member of the panchayat. Accordingly, the petitioner's submission that the Additional Collector had no jurisdiction to condone the delay, cannot be accepted. In this case it is not as if the delay has been condoned. All that the impugned order states is that the returned candidates have offered some good reason or justification for the failure to lodge account of election expenses within the prescribed period.

7. Further, in the present case, the petitioner applied for disqualification of respondent nos. 2, 3 and 4 upon the ground that they had failed to lodge the account of election expenses on or before 23rd January, 2014. In pursuance of the said, Additional Collector issued show cause notices to respondent nos. 2,3 and 4, requiring them to show cause as to why the powers under sub section (1)

of section 14B of the said Act be not exercised. The said respondents thereafter, furnished explanation which was backed by certain medical certificates, as also the statements of the death of close relatives. The Additional Collector, in the impugned order, has accepted the explanation and treated the same as good reason or justification for the delay of less than fifteen days in lodging the account of election expenses. Accordingly, it is not possible to accept the petitioner's contention that the cause shown by respondent nos. 2 to 4 could not have been gone into or considered in the petition lodged by the petitioner seeking their disqualification.

8. In so far as the cause shown is concerned, normally, it is not for this court to interfere, unless perversity and non application of mind is demonstrated. The respondents have placed reliance upon certain medical certificates which indicate that they were unable to lodge the account of election expenses within the prescribed period. One of the respondents has pointed out that her husband's brother expired on 18th January, 2014 and this circumstance along with her ill health disabled her from lodging the account of election expenses within the prescribed period. The medical certificates were not challenged by the petitioner, though in respect of one of the respondents, certificate had been produced by the petitioner that the said respondent was attending the duties through out the said period. Upon overall consideration of the material, however, it cannot be said that there is any perversity or non application of mind on the part of the Additional Collector in accepting the cause shown. The delay, in the present case is also not of any significant magnitude, particularly, in the context that the disqualification would overturn the will of the majority and unseat the democratically elected candidates.

9. Accordingly there is no merit in the present petition. The same is dismissed. There shall be no order as to costs.