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VIRENDRASING

v.

THE ADDITIONAL COMMISSIONER AND ORS.

(Civil Appeal No. 1715 of 2023)

B

APRIL 17, 2023

**[SANJAY KISHAN KAUL, AHSANUDDIN AMANULLAH
AND ARAVIND KUMAR, JJ.]**

C *Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 : ss. 16(1)(i), 40 – Disqualification – Appellant elected as a member of the Zilla Parishad – Petition by respondent no.3 u/ss. 40 and 16(1)(i) claiming appellant’s disqualification on the ground that the appellant had misused his elected post for gaining undue personal financial benefit whereby in E-tender floated for the project, work order was issued in favour of the appellant’s son –*
D *Application allowed by Divisional Commissioner – Writ petition thereagainst dismissed by the High Court – On appeal, held :Salutory purpose of disqualification provisions was to ensure the purity of administration in Municipal Committee – On facts, it was not even a situation where the appellant’s son was carrying on any existing contractual work – It was only soon after the election of*
E *the appellant that his son was registered as a contractor – Only contract awarded to him was the one where the funds flowed to the Gram Panchayat from the Zilla Parishad of which the appellant was a member – Moreover, issuance of the work order by the Zilla Parishad itself shows the Zilla Parishad’s supervisory and*
F *sanctioning role in the contract, which falls within the wide ambit of s. 16(1)(i) – Probity in such financial transactions should be the rule rather than the exception – Appellant had a greater responsibility as a father to make sure that his son does not enter into a contract that is sanctioned by the Zilla Parishad itself – Order*
G *passed by the High Court is upheld – Consequential disqualification would take effect from the date of the judgment.*

Dismissing the appeal, the Court

HELD: 1.1 The objective of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 is to introduce local self-governance and administration at the grassroots, and to entrust
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A that the funds flowed from the State Government to the Zilla Parishad, and in turn to the Gram Panchayat. This is notwithstanding the translation of the resolution dated 26.01.2020 adduced by the appellant, whereby an impression is sought to be given as if the Gram Panchayat was willing to spend its own funds on the project. In any case, this translation has been seriously
B disputed by respondent no. 3. The issuance of the work order dated 09.06.2020 by the Zilla Parishad itself shows the Zilla Parishad's supervisory and sanctioning role in the contract, which falls within the wide ambit of Section 16(1)(i) of the said Act. [Para 21][800-G; 801-A-B]

C 1.5. Probity in such financial transactions should be the rule rather than the exception. The appellant had a greater responsibility as a father to make sure that his son does not enter into a contract that is sanctioned by the Zilla Parishad itself. The finding of fact by courts below that nothing had been placed on
D record to show even a separation of residence between the son and the father, other than a ration card purporting to show that the son was living with his grandmother. This was neither here nor there, more so when the son had just completed his education. [Para 22][801-C-D]

E 1.6. That sufficient opportunities were made available to the appellant to present his arguments. There cannot be a birthright to seek adjournments, especially when the Divisional Commissioner was mandated to decide the issue of appellant's disqualification within a period of ninety days from respondent
F no.3's application, as per Section 40(2) of the said Act. The Divisional Commissioner thus rightly treated the appellant's written submissions as his defence. [Para 23][801-E]

1.7. The consequential disqualification would take effect from the date of the judgment. [Para 24][801-F-G]

G *Dharampal Satyapal Ltd. v. Deputy Commissioner of Central Excise, Gauhati & Ors. (2015) 8 SCC 519 : [2015] 6 SCR 437; Gulam Yasin Khan v. Shri Sahebrao Yashwantrao Walaskar & Ors. AIR 1966 SC 1339 : [1966] SCR 339; Ravi Yashwant Bhoir v. District*

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and the Zilla Parishad's counter affidavit, reveal that the funds flowed from the State Government to the Zilla Parishad, and in turn to the Gram Panchayat. This is notwithstanding the translation of the resolution dated 26.01.2020 adduced by the appellant, whereby an impression is sought to be given as if the Gram Panchayat was willing to spend its own funds on the project. In any case, this translation has been seriously disputed by respondent no. 3. In our view, the issuance of the work order dated 09.06.2020 by the Zilla Parishad itself shows the Zilla Parishad's supervisory and sanctioning role in the contract, which falls within the wide ambit of Section 16(1)(i) of the said Act.

22. We believe that probity in such financial transactions should be the rule rather than the exception. The appellant had a greater responsibility as a father to make sure that his son does not enter into a contract that is sanctioned by the Zilla Parishad itself. We may note the finding of fact by courts below that nothing had been placed on record to show even a separation of residence between the son and the father, other than a ration card purporting to show that the son was living with his grandmother. It was rightly observed that this was neither here nor there, more so when the son had just completed his education.

23. We may also note that sufficient opportunities were made available to the appellant to present his arguments. There cannot be a birthright to seek adjournments, especially when the Divisional Commissioner was mandated to decide the issue of appellant's disqualification within a period of ninety days from respondent no. 3's application, as per Section 40(2) of the said Act. The Divisional Commissioner thus rightly treated the appellant's written submissions as his defence.

Conclusion:

24. In the aforesaid conspectus, we are thus of the view that the appeal must fail and is accordingly dismissed. The consequential disqualification would take effect from the date of the judgment.

25. The appeal is accordingly dismissed leaving the parties to bear their own costs.