



महाराष्ट्र शासन राजपत्र असाधारण भाग चार-क

वर्ष ४, अंक ३४] शुक्रवार, ऑक्टोबर १९, २०१२/आश्विन, २७, शके १९३४ [पृष्ठे ३
किंमत : रुपये १३.००

असाधारण क्रमांक ६१

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाव्यतिरिक्त इतर वैधानिक प्राधिकाऱ्यांनी तयार केलेले (भाग एक, एक-अ व एक-ल यांमध्ये प्रसिद्ध केलेले वैधानिक नियम व आदेश यांव्यतिरिक्त इतर) वैधानिक नियम व आदेश ; यात भारत सरकार, उच्च न्यायालय, पोलीस आयुक्त, आयुक्त (राज्य उत्पादन शुल्क), जिल्हादंडाधिकारी व निवडणूक आयोग, निवडणूक न्यायाधिकरण, निवडणूक निर्णय अधिकारी व निवडणूक आयोगाखालील इतर प्राधिकारी यांनी तयार केलेले वैधानिक नियम व आदेश यांचा समावेश होतो.

BEFORE THE GOVERNOR OF MAHARASHTRA

In Re.: Petition under Article 192(1) of the Constitution of India by Shri Dyaneshwar Pannalal Kambhale and Shri Ratnadeep Lalchand Rangari of Nagpur, regarding alleged disqualification of Shri Chandrashekhar Krishnarao Bawankule, Member of Legislative Assembly of Maharashtra, under Article 191(1)(e) of the Constitution of India.

Order

No. Raj Bhavan-2012/A/CR/5517.—This is a petition under Article 192(1) of the Constitution of India filed jointly by Shri Dyaneshwar Pannalal Kambhale and Shri Ratnadeep Lalchand Rangari of Nagpur, alleging that Shri Chandrashekhar Krishnarao Bawankule, who is elected as Member

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of the Maharashtra Legislative Assembly has become subject to the disqualification under Article 191(1)(e) of the Constitution of India. The petitioners have, in their petition alleged disqualification of Shri Chandrashekhar Krishnarao Bawankule, Member of Legislative Assembly of Maharashtra, for executing contract, by proxy, with the State Government through a Firm (M/s Jagdamba Construction Co.) in which he was earlier a partner prior to his election as MLA in 2009. It was also alleged that after his election as MLA, Shri Bawankule nominated his wife and a minor son in the Firm as partners *vide* partnership reconstitution deed, dated 21st October 2004. The contention of the petitioners is that entering into contract through proxy would also invite disqualification under Section 9A of the Representation of the People Act, 1951 (disqualification on account of subsisting contract with the appropriate Govt.). The petitioners have referred to a ruling of the Supreme Court in *Sevaram Vs. Sobaran Singh* (AIR 1993 SC 212) in support of their claim that contract by proxy would also attract disqualification under Section 9A of the Representation of the People Act, 1951.

The petitioners also contended that they had earlier filed a Writ Petition No. 1760 of 2010 before the Bombay High Court for a direction to the Maharashtra State Public Work Department, Zilla Parishad and Municipal Council, Nagpur and the Maharashtra State Power Generation Company, to terminate all existing contracts with the Partnership Firm M/s Jagdamba Construction Co. The High Court dismissed the petition as it was devoid of any merit. They filed a Special Leave Petition No. 22655/2010 before the Supreme Court against the above order of High Court of Judicature at Bombay Bench at Nagpur. One of the questions of law raised in the Special Leave Petition was whether engaging in contract through proxy would be breach of Section 9A of the Representation of the People Act, 1951 and Article 191(1)(e) of the Constitution of India. The Special Leave Petition was dismissed by the Hon'ble Supreme Court as withdrawn *vide* order dated 29 February 2012.

2. As required by the provisions of clause (2) of Article 192 of the Constitution, the question of the alleged disqualification was referred to the Election Commission of India for its opinion. The Election Commission

of India has after giving notice to both the parties and after considering their respective say submitted its opinion in the matter.

The Commission, after careful consideration of the documents submitted by the petitioners, the respondent and verification of two crucial documents by the Registrar of Firms, Nagpur and Executive Engineer, Public Works Department, was satisfied that the allegations made by the petitioners in their petition presented to the Hon'ble Governor of Maharashtra under Article 191(1)(e) of the Constitution alleging that the respondent, Shri Chandrashekhar Krishnarao Bawankule, Member, Legislative Assembly at Maharashtra, continued to execute contracts with the Government of Maharashtra even after his election in September, 2009, and thereby incurred disqualification within the meaning of Article 191(1)(e) of the Constitution of India read with Section 9A of the Representation of the People Act, 1951 are not substantiated. The Court cases filed by the petitioners before the Hon'ble Bombay High Court and the Special Leave Petition filed before the Hon'ble Supreme Court raising the issue of execution of contracts by proxy have also been dismissed by the Courts. Thus, none of the disqualifications mentioned in Article 191(1) is attracted in this case, on the facts mentioned in the petition. In the opinion of the Commission the petition is, therefore, not maintainable before the Governor in terms of Article 192(1) of the Constitution.

In view of the above, the Election Commission has returned reference received under Article 192(2) of the Constitution of India with observation to the effect that the respondent is not subject to any disqualification under Article 191(1) (e) of the Constitution of India read with Section 9A of the Representation of the People Act, 1951 on the ground raised in the petition.

In accordance with the said opinion, I pass the following order :—

Order

The petition of Shri Dyaneshwar Pannalal Kambhale and Shri Ratanadeep Lalchand Rangari is hereby, for the reasons stated above, dismissed.

Mumbai,

Dated the 5th Day of October, 2012

K. SANKARANARAYANAN,

Governor of Maharashtra.

निवडणूक प्राथम्य

क्रमांक. डीआयएस-२०१२/प्रक्र.१९४(१)/१२/३३

सामान्य प्रशासन विभाग

मादाम कामा मार्ग, हुतात्मा राजगुरु चौक,

मंत्रालय विस्तार, मुंबई ४०० ०३२,

दिनांक १६ ऑक्टोबर २०१२.

प्रत माहितीसाठी व उचित कार्यवाहीसाठी अग्रेषित:—

- (१) प्रधान सचिव, विधानमंडळ सचिवालय, विधानभवन, मुंबई.
- (२) विभागीय आयुक्त, नागपूर विभाग, नागपूर.
- (३) जिल्हाधिकारी व जिल्हा निवडणूक अधिकारी, नागपूर .

अ.ना.वळवी,

अवर सचिव व उप मुख्य निवडणूक अधिकारी,

महाराष्ट्र राज्य.