

BEFORE THE COLLECTOR, DISTRICT BEED

Applicant: Shaikh Sattar Shaikh Rahim

Vs

Non applicant: Jubeda Begam Abdul Rashid (sitting
councillor of Municipal Council, Beed .ward no.9A)

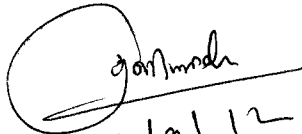
This case has come before me for hearing and decision under section 44 of Maharashtra Municipal Council, Nagar Panchayat, Industrial Township Act 1965 (hereinafter referred as The Act for sake of brevity) seeking disqualification of the Non-applicant. The brief facts of the case are as follows:-

- 1) The Applicant has submitted an application in this office on 14-02-12, also an additional written say on 27-08-12.

The main contentions raised by the Applicant are as follows

a) The Applicant alleges that the Non-applicant's husband (Abdul Rashid) and son (Abdul Mubin) own properties at Beed bearing Municipal House No.3-3-15- and -3-3-611 respectively over which they have made R.C.C construction without seeking required building construction permission from the Municipal Council thus violating the provision of section 44(1)e of The Act .The applicant has submitted a letter dated 16-01-2012 issued by Town Planner ,Municipal Council ,Beed as an evidence.

b) The Applicant alleges that the Non applicant has taken unfair advantage of her councillorship to get building occupancy certificate dated 28-02-2012 from Chief Officer , Municipal Council ,Beed as Chief Officer has no right to issue such certificate for unauthorized construction.


14/9/12

c) While filing the nomination form for Municipal Council election , the Non applicant has furnished false information that non applicant had no dues to pay to the Municipal Council .The Applicant has submitted a letter dated 09-02-2012 issued by Tax Superintendent, Municipal Council, Beed mentioning that total amount of tax Rs 13146 due from the Non applicant's husband since March 2007

The Applicant thus prays to disqualify the Non applicant to hold her office and to demolish the illegal construction raised by the Non applicant.

2) The non applicant has submitted her written say on 10-08-2012.The defense taken by the non applicant is as follows:

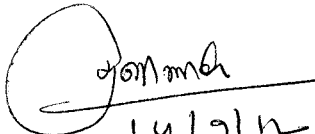
a) The non applicant is a Muslim woman and there is no such concept as joint family in Muslim Law. The non applicant's son Abdul Mobin who owns the property Municipal House No 3-3-611 ,is married and lives separately with his wife. The non applicant is not aware about the construction made by her son and whether he has taken building construction permission or not.

b) The non applicant accepts that her husband Abdul Rashid owns property Municipal House No 3-3-15 and has reconstructed the old house present on the same property . But there is no evidence given by the applicant about date or period of construction by her husband .

It is also mentioned by the non applicant that her husband has received building occupancy certificate for the construction on property Municipal House No3-3-15 as the construction is according to building rules. The non applicant has submitted a letter dated 28-02 -12 issued by Chief Officer as an evidence.

c) The non applicant argues that she does not own any property in the area of Municipal Council, Beed hence there is no question of dues to be paid by her to Municipal Council, Beed

Now after going through the documents and written arguments submitted by the applicant and non applicant , to decide the application following question is to be answered.


14/5/12

Whether the applicant proves that the non applicant herself, her husband or her dependent has constructed unauthorized construction at any time during her term of office?

REASONS

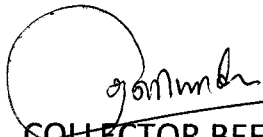
- 1) Applicant fails to provide any evidence about date or period of alleged unauthorized construction made by non applicant's husband and her son. The applicant provides photographs of alleged unauthorized construction which can not be accepted as proof for date of construction. Also point to be noted is that the property mentioned does not belong in her name.
- 2) Chief Officer , Municipal Council, Beed by his letter dated 01-09-12 submits that the building occupancy certificate issued to non applicant's husband for construction on property Municipal House No3-3-15 is as per law.
- 3) Applicant fails to prove nexus between the non applicant and the alleged unauthorized construction made by her son on property - Municipal House No 3-3-611
- 4) Applicant fails to prove that Municipal Council, Beed has any amount of tax due from the non applicant herself.

ORDER

After going through the arguments of advocates of both the sides and documents submitted on record it is clear that there is no merit in the charges leveled in the application submitted by Mr. Shaikh Sattar Shaikh Rahim so the applicant's prayer for disqualifying the defendant Mrs. Jubeda Begam Abdul Rashid is rejected.

Place: Beed

Date:


~~COLLECTOR BEED~~
14/9/12