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349-59-477
(40)
Disqualification of member of
Village Panchayat under Section
16 of Bombay Village Panchayats
Act, 1958.

GOVERNMENT OF MAHARASHTRA,
Rural Development Department,
CIRCULAR NO. VPM-1470/15791-E,
Sachivalaya, Bombay-32, Dated the 21st May, 1971.

Letter No. VPC-587, dated the 5th December 1970 from
the Commissioner, Bombay Division.

CIRCULAR : The following points have been raised in conne-
ction with the question of disqualification of members of
Village Panchayats under section 14 and 16 of the Bombay
Village Panchayats Act, 1958 :-

- (i) Whether the question of alleged disqualification
of a person elected to the Village Panchayat can
be decided by the Collector under Section 16 before
the first meeting of the Village Panchayat;
- (ii) Whether election of the Sarpanch can be withheld
if in case of a person declared elected, a question
is raised for disqualifying him under section 16
read with section 14 of the Bombay Village
Panchayats Act, 1958.

OFFICE OF THE COLLECTOR,
PATNAGIRI.
Date ... 2 JUN 1971.
Branch ...

2. The points mentioned above are clarified as follows :- .

(i) Section 16 (1) of the Bombay Village Panchayats
Act, 1958, provides, inter alia, that if any member of a
Panchayat, who is elected was subject to disqualifications
mentioned in section 14 at the time of his election, or
during the term for which he is elected incurs any of the
disqualifications mentioned in section 14, he shall be
disabled from continuing to be a member and his office shall
become vacant. The question of disabling a person from
continuing to be a member and his office ~~shall~~ becoming
vacant can prima facie arise only after a member of a Pancha-
yat has assumed his office. Under Section 28 (1) of the Act,
the term of office of the members elected at a general ele-
ction shall be deemed to commence on the date of the first
meeting of the Panchayat and under section 28(2) the term of
office of the outgoing members shall be deemed to extend to,
and expire with, the day before such meeting. It would appear
from this provision that a person elected to the Village
Panchayat must be deemed to have assumed the office of his
membership of the Village Panchayat with effect from the date
of the first meeting of the Panchayat and not earlier.
Consequently, the question whether a vacancy has occurred
under section 16(1) of the Act can be decided by the Collector
only after the term of office of such a member has commenced
and not earlier.

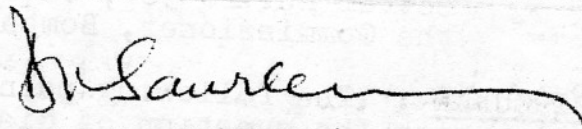
(PTO)

(41)

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(2) Since as explained in (1) above, the question of disqualification can be considered only after the first meeting of the Village Panchayat which elects the Sarpanch, it is obvious that the election of the Sarpanch can not be withheld.

By order and in the name of the Governor of Maharashtra,



(D. V. SAURKAR)

Under Secretary to Government.

To

All Commissioners of Divisions,
All Collectors (except Bombay and Bombay Suburban District),
All Chief Executive Officers of Zilla Parishads.