



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12116 OF 2026

1. Rajesh Vadhrya
2. Pradeep Ramchandani ... Petitioners
Versus

1. Ulhasnagar Municipal Corporation
2. The Municipal Commissioner,
Ulhasnagar Municipal Corporation.
3. The Mayor, Ulhasnagar Municipal Corporation
4. The Municipal Secretary,
Ulhasnagar Municipal Corporation
5. The State of Maharashtra ... Respondents

Mr. Anil Anturkar, Senior Advocate, a/w Mayur Khandeparkar, Monish Bhatia, Minal Chandnani, Mohit Jagiasi, Darshil Shah & Rajesh Ranglani for Petitioners.

Mr. Anil Sakhare, Senior Advocate i/b. Suresh M. Kamble for Respondent Nos. 1 to 4.

Mr. Sumeet Tirthani, Narayan R. Bubna, Pooja Malik, Aryanraj A. Achhra for Intervenors.

Mr. A. R. Deolekar, AGP for Respondent-State.

CORAM: G. S. KULKARNI &
DR. NEELA GOKHALE, JJ.

DATE: 11th SEPTEMBER 2026

ORAL JUDGMENT (Per G.S. Kulkarni, J.)

1. The present petition raises two basic issues; firstly, whether the Mayor under the provisions of the Maharashtra Municipal Corporations Act, 1949 read with the Rules thereunder would have authority and power to indefinitely postpone a Special General Body Meeting of the Municipal Corporation convened by the Mayor and secondly, in what manner and purpose, such power can be exercised.

2. This petition under Article 226 of the Constitution of India essentially

challenges the communication dated 7th September 2026, issued by Respondent No.2, the Municipal Commissioner of the Ulhasnagar Municipal Corporation (“**Municipal Corporation**”), informing the Deputy Mayor and other office bearers of the Municipal Corporation¹ that in pursuance of the communication dated 4th September 2026 of the Mayor of the Municipal Corporation/Respondent No.3, the process of accepting the nomination forms being held on 7th September 2026 for appointment of the nominated councillors and for which a Special General Body Meeting (“**SGBM**”) being held on 11th September 2026, stands indefinitely postponed.

3. The Petitioners also assail the decision of the Mayor dated 4th September 2026 (Exhibit-B) who has addressed the said communication to the Municipal Commissioner, which is on the basis of two letters/notices dated 3rd September 2026 and 4th September 2026, received from the advocates on behalf of their clients. By these letters/notices of the advocates, an objection has been raised to the process of accepting “Nominations Forms” from the candidates for appointment as nominated Councillors in the SGBM being conveyed for the said purpose today (on 11th September 2026). The advocates in the said letters have stated that they were concerned for their clients who were elected Councillors, who were disqualified as Councillors, as their caste certificates were invalidated by the Caste Scrutiny Committee. They stated that their clients (disqualified Councillors) have filed proceedings before this Court, assailing the invalidation of the caste certificate by the Caste Scrutiny Committee, resulting into their disqualification as

1 the Leader of the House of the Municipal Corporation; the Chairman of the Standing Committee; the Opposition Leader; and the other heads of the different political parties of the Municipal Corporation,

Councillors, which were *sub judice* before this Court. They stated that in these circumstances a prejudice was being caused to their clients, who would not be in a position to participate in the SGBM to be held on 11 September 2026. The Mayor acting upon these letters of the Advocates, by the impugned decision indefinitely postponed the SGBM being convened *vide* notice dated 31st August 2026 to be held on 11 September 2026, on the ground that the Mayor was seeking a legal opinion in the context of such letters of the advocates. It is pursuant to this order/communication of the Mayor dated 4 September, 2026, that the Commissioner by the impugned communication dated 7 September, 2026 has postponed the meeting indefinitely.

4. The facts lie in a narrow compass. The petition describes petitioner No.1 to be the *Gat Neta* of a political party which had participated in the Municipal Elections. It is contended that petitioner no. 1 is a functionary with whom the Municipal Commissioner was statutorily required to have consultations in relation to the recommendations to be made in nominating the councillors, espousing the interest of his political party. Petitioner No.2 is also described to be a person duly qualified for nomination as a councillor, being an office bearer of the duly registered public charitable trust society engaged in social welfare activities within the jurisdiction of the Municipal Corporation.

5. The general elections of the Municipal Corporation were held on 16 January 2026. It is the case of the Petitioners that after such elections were held and the results declared, as per the requirement of the provisions of Section 5(2)(b)

of the Maharashtra Municipal Corporations Act, 1949 (“**MMC Act**”), nominated councillors not exceeding 10% of the total number of elected councillors or ten, whichever is less, having special knowledge or experience, are to be nominated by the Municipal Corporation in such manner as may be prescribed. Section 5(2)(b) reads thus:

“5. Constitution of Corporation.

(1) * * * * *

(2) Each Corporation shall consist of,-

(a) * * * * *

(b) such number of nominated councillors [not exceeding ten per cent. Of the total number of elected councillors or ten, whichever is less], having special knowledge or experience in Municipal Administration to be nominated by the Corporation in such manner as may be prescribed;]

* * * * *

6. The Petitioners contend that the appointment of the nominated councillors is governed by the **Maharashtra Municipal Corporation (Qualification and Appointment of Nominated Councillors) Rules 2012** (for short the “**2012 Rules**”). Rule 3 of the said Rules provides that the Corporation shall hold a meeting for nomination of the councillors after the expiry of one month from the date of notification of election results, after general elections, for nomination of the nominated councillors. The said Rule reads thus:

“3. Meeting for nomination of councillors

Subject to the provisions of rule 4, the Corporation shall, in its meeting held immediately after the expiry of one month from the date of notification of election results, after general elections, nominate five persons to be nominated councillors.”

7. Also, Rule 5 of the 2012 Rules provides for nomination of councillors, which reads thus:

“5. Nomination of councillors

(1) For the purpose of nomination of councillors, the Commissioner shall,

after consulting the Leader of the House, Leader of Opposition and Leader of each recognized or registered party or group in the Corporation, and after taking into account the relative strength of such parties and groups recommend the names of suitable persons to the Corporation for being nominated as a nominated councillor. The names of such persons recommended shall not exceed the number of councillors to be nominated in accordance with rule 3.

Provided that, while recommending the names of persons to be nominated councillors on the basis of relative strengths of the recognized or registered parties or groups or aghadis or fronts, formed as per the provisions of sub-section (2) of section 50S of the Mumbai Municipal Corporation Act, or section 31A of the Bombay Provincial Municipal Corporation Act, 1949 or section 40A of the City of Nagpur Corporation Act, 1948, as the case may be, the Commissioner shall first consider the whole number of the seats admissible for nomination of persons as nominated councillors to such recognized or registered parties or groups or aghadis or fronts, as per their relative strengths and thereafter if one or more seats remain to be allotted, the same shall be allotted to such recognized or registered parties or groups or aghadis or fronts in the descending order of the fraction numbers, considering the highest fraction till all the seats of nominated councillors are allotted:

Provided further that, while recommending the names of the basis of the descending order of the fraction number, as mentioned in the above proviso, if two or more recognized parties or groups or aghadis or fronts have the same fraction number, then the Commissioner shall, recommend the names of person belonging to such recognized or registered parties or groups or aghadis or fronts, selected on the basis of lots drawn in the presence of all such concerned parties or groups or aghadis or fronts.]

(2) The Corporation shall, after considering the recommendation by the Commissioner, nominate the councillors:

Provided that, if the Corporation decides not to accept the recommendation of the Commissioner with respect to a person so recommended, it shall record the reasons therefor:

Provided further that, every endeavor shall be made to ensure that one councillor each possessing any of the qualifications referred to in clauses (a) to (g) of rule 4 has been nominated.”

8. It is clear from the reading of Rule 5 that for the purpose of nomination of councillors, it is the Commissioner, who shall, after consulting the Leader of the

House, Leader of Opposition and Leader of each recognized or registered party or group in the Corporation, and after taking into account the relative strength of such parties and groups, recommend the names of suitable persons to the Corporation for being nominated as nominated councillors. It is also provided that the names of such persons recommended shall not exceed the number of the councillors to be appointed in accordance with Rule 3. Sub-rule (2) of Rule 5 provides that the Corporation shall after considering the recommendations by the Commissioner, nominate the councillors. The proviso thereunder stipulates that if the Corporation decides not to accept the recommendation of the Commissioner with respect to the person so recommended, it shall record the reasons therefor.

9. It appears from the record that although Rule 3 required that within one month of the election of the Municipal Corporation, a meeting be convened for appointment of the nominated councillors, the same was not immediately convened. However, by notice dated 31st August 2026 issued by the Municipal Secretary on the orders of the Mayor, such notice was published on 31st August 2026, providing that the nomination forms be submitted on 7th September 2026. On the even date, the Municipal Secretary issued a notice that the SGBM for such purpose would be held on 11th September 2026 at 5:00 p.m. (i.e.,today) for appointment of seven nominated councillors. Both the said notices dated 31st August 2026, are annexed to the reply affidavit filed by the Municipal Commissioner on behalf of Respondent Nos.1 to 4.

10. As noted hereinabove, it appears that after such notices dated 31st August

2026 were issued, two letters/notices dated 3rd September 2026 and 4th September 2026 were received by the Municipal Commissioner, addressed by the advocates, representing one 'Pooja Kishor Bhokre alias Pooja Sachin Bhoir' and another 'Vicky Darshansingh Labana', who were elected Councillors, whose caste certificates were invalidated by the Caste Scrutiny Committee. The said letters/notice recorded that these persons have approached this Court challenging the said decision/s in the proceedings of Writ Petition bearing (St) No.19268 of 2026 and Writ Petition bearing (ST) No. 14917 of 2026 respectively, which are stated to be pending before this Court. The grievance of both these elected corporators, in such letters, of their respective advocates, was to the effect that due to invalidity of their caste certificate, they have suffered disqualification, which has caused a prejudice to them from participating in the process of appointment of nominated councillors, as per Section 5(2)(b) of the MMC Act. It was contended that if the process of election of Co-opted Corporators is proceeded on the basis of the reduced numerical strength, the same would cause prejudice to them, hence the proceedings of Co-opting Corporators ought not to proceed. It was specifically contended that the disqualified corporators strongly objected to the process of election of the nominated Councillors on the basis of the alleged disqualification on the ground of reduced numerical strength of their respective parties. For such reason, they requested the Municipal Commissioner to defer the election process being held on 11 September, 2026, to nominate the Councillors, contending that the proceedings assailing their disqualification were pending before this Court. Illustratively, the request as made in the letter addressed by the advocate for one of the elected

corporators namely Pooja Kishor Bhokre alias Pooja Sachin Bhoir, is required to be noted, which reads thus:

“14. In view of the above, I call upon your good office to:

- a. Take this objection on record;
- b. Defer the election process of Co-opted Corporators until the Hon'ble Bombay High Court considers the interim relief in Writ Petition (St.) No. 19268 of 2026;
- c. Not proceed with or finalize the election of Co-opted Corporators on the basis of the reduced numerical strength caused by the disputed disqualification of my client;
- d. In the alternative, record that any further process of election of Co-opted Corporators shall remain subject to the outcome of Writ Petition (St.) No. 14917 of 2026 and further orders of the Hon'ble Bombay High Court;
- e. Grant an opportunity of hearing to my client before taking any further step”

11. The said letters/notices of the advocates were addressed to the Municipal Commissioner, however, it appears that copies of the said letters were addressed to Respondent No.3-Mayor and it is the Mayor who took cognizance of these letters, who by the impugned letter/order dated 4th September 2026, addressed to the Municipal Commissioner, recorded that a legal opinion has been sought on such issue as raised by the advocates of the disqualified Councillors and therefore, the process of appointing nominated councillors in the SGBM to be held on 11th September 2026, be indefinitely postponed. It is such orders of the Mayor which were acted upon by the Municipal Commissioner, in issuing the impugned letter dated 7th September 2026, indefinitely postponing the SGBM to appoint nominated councillors, is the challenge as mounted in the present proceedings.

12. Mr. Anil Anturkar, learned Senior Advocate for the Petitioner, has made extensive submissions. His first submission is to the effect that the Mayor would not have any authority or jurisdiction to indefinitely postpone the meeting being

held today at 5:00 p.m. in which seven councillors were to be nominated as per the requirement of Section 5(2)(b) of the MMC Act, which according to him, in fact ought to have happened within one month from the date of the general election results, which took place on 16th January 2026. He submits that even assuming that the Mayor has the power to convene a meeting which would include a power even to postpone a meeting, however, such power is required to be exercised in accordance with law and it cannot be an arbitrary exercise of power or for any collateral purposes and/or not *bona fide*. It is his submission that merely because the Mayor has received letters from the advocates of two elected corporators, who have suffered disqualification, this could never be a ground for the Mayor to address the impugned letter dated 4th September 2026 to the Municipal Commissioner, ordering indefinite postponing of the SGBM to be held today to appoint the nominated councillors. It is also his submission that in the present case, the Municipal Commissioner has also acted mechanically in accepting the orders of the Mayor in issuing the impugned communication dated 7th September 2026 orders the elections to be indefinitely postponed. It is next submitted that it is clear from the record that the reasons as set out by the disqualified corporators, that a prejudice was caused to them, preventing their participation in the SGBM, in view of the disqualification suffered by them, on account of their caste certificate being invalidated is an untenable contention. It is his submission that the legal status of these councillors, was that of disqualified councillors. It is submitted that considering the settled principle of law, once they were disqualified, there was no question of the Mayor acting upon the letters of the advocates, as if the letters of

the advocates, in some manner were in the nature of an injunction granted by any Court, and more particularly when the proceedings in regard to their caste certificate being invalidated were sub judice before this Court, on which no interim orders were passed. It is his submission that the reasons as set out in the letter of the advocates were certainly political reasons and which can never form basis of such action being taken by either the Mayor or the Municipal Commissioner to postpone the meeting being convened today, to appoint nominated councillors and that too indefinitely.

13. Mr. Anturkar has further submitted that the entire action on the part of the Mayor and the Commissioner is illegal, and in fact such action is required to be held to be a colorable exercise of power and an action taken for collateral reasons and not *bona fide*, if not *mala fide*. It is also his submission that discharge of statutory compliances to appoint the nominated councillors, cannot have been postponed in such manner and for such reason as borne out by the impugned communication issued by the Mayor.

14. On the other hand Mr. Sakhare, learned Senior Advocate who has represented Respondent Nos.1 to 4 would support the impugned action. Mr. Sakhare submitted that the Petitioners are not correct in their contention, that the Mayor had no authority to postpone the SGBM indefinitely, as the Mayor possessed the power to convene a meeting, relying on the provisions of Chapter II of Schedule D under the MMC Act, making provisions for the proceedings of the Corporation, Standing Committees, etc., under which paragraph 1(c) provided for

the manner in which the Mayor can convene a meeting. The Provisions of paragraph 1(c) are required to be noted which reads thus:

“1(c) the day, time and place of meeting shall in every other case be fixed by the Mayor or in the event of the office of Mayor being vacant, or of the death or resignation of the Mayor or of his ceasing to be a councillor, or of his being incapable of acting, by the Deputy Mayor, or failing both the Mayor and the Deputy Mayor, by the Chairman of the Standing Committee;”

15. It is Mr. Sakhare's submission relying on the reply Affidavit filed by Ms. Manisha Ahawale, the Municipal Commissioner, that in the given facts the Commissioner was justified in implementing the orders passed by the Mayor to postpone the SGBM indefinitely, for the reasons which are recorded in the letter of the Mayor addressed to the Commissioner. He submitted that the Mayor acted upon the representations made by the said disqualified corporators, who had raised an objection to holding of the SGBM on the ground that prejudice will be caused to them, if the proceedings were to be taken forward and the nomination of the councillors takes place *sans* the participation of the said Councillors although presently they were disqualified and more particularly for the reason that their disqualification, has reduced the numerical strength of the respective party and which would prejudice, such nominations to be made. Mr. Sakhare has relied on the decision of the Supreme Court in *Jayantbhai Manubhai Patel v. Arun Subodhbhai Mehta*² to contend that the Mayor has the power to not only convene the meeting but also to postpone the meeting, and in the present case justifiably for indefinite period, as the Mayor found it appropriate to approach the State Government to seek its opinion / legal advice in regard to the position of the

² AIR 1989 SC 1289

disqualified corporators affecting the SGBM. It is Mr. Sakhare's submission that the impugned communication was issued on 7th September 2026 and in pursuance thereto none of the nominations have been accepted and hence, according to him there was no warrant for the proposed meeting to be held today at 05:00 p.m. It is his submission that the Mayor and Commissioner have acted *bona fide* in accordance with law, hence the Petitioners' contention that impugned action on the part of the Mayor as also the Commissioner is not *bona fide* or is for collateral purposes is wholly untenable. Mr. Sakhare would submit that the petition deserves to be dismissed.

16. We have heard learned Counsel for the parties. We have also perused the record including reply Affidavit filed by the Municipal Commissioner on behalf of the Respondent Nos.1 to 4.

17. We may at the outset observe that Section 5(2)(b) of the MMC Act categorically provides for the councillors to be appointed by nomination. In regard to such appointment by nomination, specific Rules are framed under the MMC Act, namely, the Maharashtra Municipal Corporations (Qualifications and Appointment of Nominated councillors) Rules, 2012 (supra). The obligation under Rule 3 and 4 is *inter alia* is to the effect that Corporation holds a meeting after expiry of one month from the date of notification of election results of the general elections, to appoint nominated councillors and the procedure in that regard to be followed by the Commissioner as set out in Rule 5 of the said Rules (supra). Admittedly, such meeting (SGBM) for such purpose was not

convened within one month in breach of the statutory mandate. We, however, do not intend to delve upon the reason as to why such statutory obligation was not timely met and more importantly, when the nominated councillors are integral to the constitution of the Municipal Corporation, under the provisions of the Act as provided for under Section 5 of the MMC Act.

18. The question, however, is that although belatedly, steps were initiated by the Mayor to hold a meeting to nominate the councillors as per the said statutory requirement and to that effect a notice was issued on 31st August 2026, as also respective communications to that effect were issued to the elected councillors and other stakeholders, for submitting the nomination forms on 7 September, 2026, for which a meeting (SGBM) was convened on 11th September 2026 (today) at 05:00 pm. Whether such meeting could have been indefinitely postponed, in the fact circumstances.

19. It is clear from the record that the sole reason for the Mayor to take a decision to indefinitely postpone the SGBM stems from the letter of the advocates of the two disqualified councillors, copies of which were received by the Mayor, when such letters admittedly were addressed to the Commissioner. The ground on which the Mayor has found it appropriate to postpone the election was to enable the Mayor to seek legal advice, as to whether the disqualification of the said elected councillors on their caste certificate being invalidated by the Caste Scrutiny Committee, in respect of which proceedings were pending before this Court, would bring about a situation of any prejudice being caused to such disqualified

councillors, requiring the SGBM to be held today at 5:00 p.m., to be postponed indefinitely. It is such request of the Mayor which has been acted upon by the Municipal Commissioner between the impugned communication dated 7th September 2026 to postpone today's SGBM indefinitely.

20. On the authority and powers of the Mayor to convene a SGBM, it appears that the provisions of paragraph 1(c) of Chapter II of Schedule D, which is a provision, *inter alia* in relation to regulating the Corporation's proceedings, confers an authority on the Mayor to fix the date, time and place of the meeting as set out in the said provision. When the statutory mandate itself provides that the Mayor can fix the date, time and place of meeting, it cannot be said that Mayor has no authority to convene such meeting.

21. In the present case, the Mayor had convened the said meeting (SGBM) to be held today (11th September 2026 at 05:00 pm), as seen from the notice issued by the Municipal Secretary dated 31st August 2026. This was not objected by the petitioner and/or accepted. Once the Mayor had the authority to convene a meeting implicit in the said authority is the power and authority to postpone the meeting for a reason which is lawful*. In such context we need to refer to the provisions of Section 21 of the Bombay General Clauses Act, 1904 as also Section 21 of the General Clauses Act, 1897 which read thus:

General Clauses Act, 1897

Section 21 Power to issue, to include, power to addl, to amend, vary or rescind, notifications, orders, rules or bye-laws- Where, by any Central Act or Regulation, a power to issue notifications, orders, rules or bye-laws is conferred, then that power

* See Section 21 of the Bombay General Clauses Act, 1904 and Section 28 of the General Clauses Act, 1897.

includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any notifications, orders, rules or bye-laws so issued.

Bombay General Clauses Act, 1904

Section 21 Power to make to include power to add to, amend, vary or rescind, orders, etc.- Where, by any Bombay Act or Maharashtra Act, a power to issue notifications, orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions if any, to add to, amend, vary or rescind any notifications, orders, rules or bye-laws, so issued.

22. In the context of the aforesaid provisions, we may usefully refer to the decision of the Division Bench of the Gujarat High Court in **Jitendrabhai Chunibhai Patel Vs. State of Gujarat**³ in which considering the challenge to a notification cancelling the election programme, the Division Bench held that power to issue such notification included power to rescind such notification. The following observations as made by the Court are required to be noted, which read thus:

“56. As regards challenge to the notification dated 13.1.2003 cancelling the election programme dated 19.12.2002 issued by the Director, it is obvious that if the proposed denotification of the Dascroi taluka market area and the proposed amalgamation of the said area into Ahmedabad city taluka market area takes place, the question of holding elections to the APMC for the Ahmedabad City Taluka without the Dascroi Taluka area would not arise. In fact, the APMC elected by the voters in the Ahmedabad City Taluka Market Area would not be representative of the APMC for Ahmedabad city taluka and Dascroi taluka market areas taken together.

57. However, the learned Counsel for the petitioners submitted that once the election programme was issued by the Director, it was not open to any authority to cancel such programme.

58. The learned Additional Advocate General has invited our attention to the provisions of Sec. 21 of the Bombay General Clauses Act, 1904, which reads as under: -

"21. Power to make to include power to add to, amend, vary or rescind, orders, etc. Where, by any Bombay Act, or Gujarat Act a power to issue notifications, orders, rules, bye-laws is conferred, then that power

3 2004 SCC OnLine Guj 553

includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to, add to amend, vary or rescind any notifications, orders, rules or bye-law, so issued."

59. The power to issue a notification, therefore, includes the power to rescind such notification."

23. If this be the legal position, the question is, however, whether the Mayor in the present case has acted in a manner which can be recognized in law and/or whether she has acted for a collateral purpose and not *bona fide* in issuing the impugned communication, directing the Commissioner to postpone the SGBM indefinitely.

24. In such context, we find much substance in the contention as urged by Mr Anturkar that there was hardly any reason and much less, which can be recognized in law in the Mayor acting upon the letters of the Advocates of the disqualified councillors who although were elected, stood disqualified on their caste certificate being invalidated by the Caste Scrutiny Committee. It is a settled principle of law and more particularly in the context of what has been provided under Section 10 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 ('2000 Act') that on the Caste Scrutiny Committee passing an order invalidating Caste Certificate, it brought about a deemed disqualification. This is also clear from the provisions of Section 10(4) of the 2000 Act as also the provisions of Section 10 (1C) of the MMC Act, 1949 . The said provisions are required to be noted:

" Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category

(Regulation of Issuance and Verification of) Caste Certificate Act, 2000**Section 10 Benefits secured on the basis of false Caste Certificate to be withdrawn.**

⁴[1] Whoever not being a person belonging to any of the Scheduled castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category secures admission in any educational institution against a seat reserved for such Castes, Tribes or Classes, or secures any appointment in the Government, local authority or in any other Company or Corporation, owned or controlled by the Government or in any Government aided institution or Co-operative Society against a post reserved for such Castes, Tribes or Classes by producing a false Caste Certificate / fake Caste Certificate shall, on cancellation of the Caste Certificate by the Scrutiny Committee, be liable to be debarred from the concerned educational institution, or as the case may be, discharged from the said employment forthwith and any other benefits enjoyed or derived by virtue of such admission or appointment by such person as aforesaid shall be withdrawn forthwith.

(2) Any amount paid to such person by the Government or any other agency by way of scholarship, grant, allowance or other financial benefit shall be recovered from such person as an arrear of land revenue.

(3) Notwithstanding anything contained in any Act for the time being in force, any Degree, Diploma or any other educational qualification acquired by such person after securing admission in any educational institution on the basis of a Caste Certificate which is subsequently proved to be fake or false shall also stand cancelled, on cancellation of such Caste Certificate, by the Scrutiny Committee.

(4) Notwithstanding anything contained in any law for the time being in force, a person shall be disqualified for being a member of any statutory body if he has contested the election for local authority, Co-operative Society or any statutory body on the seat reserved for any of the Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category by procuring a fake Caste Certificate or false Caste Certificate as belonging to such Caste, Tribe or Class on such fake Caste Certificate or false Caste Certificate being cancelled by the Scrutiny Committee, and any benefits obtained by such person shall be recoverable as arrears of land revenue and the election of such person shall be deemed to have been terminated retrospectively.

(5) After Caste Certificate has been cancelled and confiscated by the Scrutiny Committee, the concerned Appointing Authority, Local Authority, Government, Educational Institution, Statutory Body or Agency shall take action for withdrawal of benefits given to such person,—

(a) within thirty days from the date of order of the Appellate Authority if appeal is filed, and it is rejected by the Appellate Authority;

(b) within thirty days from the lapse of appeal period specified in sub-section (1) of section 6B, if appeal is not filed.];

(emphasis supplied)

Maharashtra Municipal Corporation Act, 1949

10. Disqualification for being a councillor.

(1) Subject to the provisions of sections 13 and 404, a person shall be disqualified for being elected and for being a councillor, if such person-

...

(1B) (a) A person shall be disqualified for being a Councillor, or for contesting an election for being elected as a Councillor, for a period of six years, if, an order is passed by the concerned authority, under section 12 or, as the case may be, section 16, holding that such person was elected as a Councillor to a seat which was reserved for a member belonging to a Scheduled Caste, a Scheduled Tribe or a Backward Class of Citizens (hereinafter referred to as "a reserved category") on the basis of false claim or a false Caste Certificate declaring that such person belonged to such reserved category.

(b) Such period of disqualification shall be computed with effect from the date of passing of such order by the concerned authority.

(1C) (a) Notwithstanding anything contained in sub-section (1B), a Councillor who has been elected to a reserved seat as mentioned in sub-section (1B), shall be disqualified for being such Councillor consequent upon the concerned Scrutiny Committee constituted under sub-section (1) of section 6 of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 or any other competent authority specified by the State Government for the purpose of scrutiny of the Caste Certificates, declaring the Caste Certificate of such Councillor to be invalid and cancelling the same, on the ground of the same having been based on a false claim or declaration made by such person claiming to be belonging to the reserved category, and thereupon the Councillor shall be deemed to have vacated his office on and from the date of declaration of such Certificate to be invalid and cancellation of the same by the said Scrutiny Committee or by the competent authority.

(b) On any person having been disqualified for being a Councillor and consequently, his seat as such Councillor having become vacant under clause (a), the State Government shall, by notification in the Official Gazette, disqualify such person for being elected or being a Councillor for a period of six years from the date of such order."

(emphasis supplied)

25. The position in law on an elected councillor being deemed to have been disqualified, on the claim for validity of the caste certificate being rejected by the Caste Scrutiny Committee is no more *res integra*. In ***Vishakha Sharad Raut alias Vishakha Moreshwar Raut Vs. The State of Maharashtra & Ors.***⁵, recently the

5 2026:BHC-AS:36294-DB

Division Bench has held that sub-section(1C)(a) of Section 16 of the Mumbai Municipal Corporation Act, 1888* in the context of Caste Scrutiny Committee declaring the Caste Certificate of the councillor to be invalid, stipulates a deeming effect, namely, that in such eventuality, the councillor shall be deemed to have vacated his office on and from the date of declaration of the Caste Certificate as invalid and cancelled by the Scrutiny Committee. The relevant observations as made by the Court are required to be noted which read thus:

22. Thus, sub-section(1C)(a) of Section 16 of the MMC Act in the context of Caste Scrutiny Committee declaring the Caste Certificate of the Councillor to be invalid, stipulates a deeming effect, namely, that in such eventuality, the Councillor shall be deemed to have vacated his office on and from the date of declaration of the Caste Certificate as invalid and cancelled by the Scrutiny Committee. Sub-section (1C)(b) provides that on any person having been disqualified as a Councillor, consequently, his seat as Councillor having become vacant as a consequence of clause (a) of sub-section (1C), the State Government, shall by notification in the Official Gazette, disqualify such person for being elected or being a Councillor for a period of six years from the date of such order. Thus, clause (b) of sub-section (1C) is a consequence of what is provided for in clause (a) of sub-section (1C). It is this provision which has been invoked by the Municipal Commissioner while issuing the impugned communication(s).

... ..

26. Once such is the effect as brought about by the provisions of sub-section (4) of Section 10, which remains unaffected by the amendment brought about by incorporation of sub-section (5)(a) and (b), the consequence is not too far to be seen, namely, that in the present case the petitioner's caste certificate having been declared to be invalid by the Caste Scrutiny Committee on 20 August, 2026, necessarily the petitioner's election is "deemed to have" been terminated retrospectively. Merely because, clause (b) of sub-section (5) provides for a limitation of thirty days from the lapse of the appeal period for withdrawal of the "benefits", in our opinion, the said provision would not dilute or extinguish or affect, in any manner, the deeming effect as brought about by the provisions of sub-section (4) of Section 10 of the 2000 Act.

27. Having considered the provisions of the 2000 Act, we now advert on the provisions of Section 16 of the MMC Act, which have been invoked by the Municipal Commissioner in addressing the impugned communication(s).

28. As noted herein above, Section 16 is an independent provision under the MMC Act providing for 'disqualification for being a Councilor'. Sub-section (1C) (a) of Section 16⁶ of the MMC Act is the relevant provision, as invoked by the

* The provisions under which are *pari materia* to the provisions of the MMC Act (supra)

6 Sub-Sections (1B) & (1C) were re-inserted by Mah. 43 of 2015, dt. 31-12-2015

Municipal Commissioner. The purport of which appears to us is not different from what has been provided for under Section 10 (4) of the 2000 Act. Sub-section (1C)(a) categorically provides that a Councilor who has been elected to a reserved seat as mentioned in sub-section (1B) shall be disqualified for being a Councilor consequent upon the concerned Scrutiny Committee constituted under sub-section (1) of section 6 of the 2000 Act, declaring the Caste Certificate of such Councilor to be invalid and canceling the same, on the ground of the same being based on a false claim or declaration made by such a person claiming to belong to the reserved category, and thereupon the Councilor shall be 'deemed' to have vacated his office on and from the date of declaration of such Certificate to be invalid and canceled by the said Scrutiny Committee or by the competent authority. Thus, this is the second "deeming provision" when it comes to the election in addition to what has been provided under Sub section (4) of section 10 of the 2000 Act. Thus by virtue of Section 16 of the MMC Act, the Councilor is deemed to have vacated his office from the date of declaration of the Caste Certificate to be declared invalid by the Caste Scrutiny Committee. As noted herein above, clause (b) of Section 16 (1C) is consequential, providing that the State Government would be required to issue appropriate notification in the Official Gazette disqualifying such person for being elected or being a Councilor for a period of six years from the date of such order.

29. The legislature in providing for an amendment of the 2000 Act, by incorporating sub-section (5) in Section 10, certainly was conscious of the consequences of the two fold situations; firstly, sub-section (4) of Section 10 providing for a deeming effect, of bringing about a disqualification in the manner as provided, namely, that election of such person, whose caste certificate has been invalidated, shall be deemed to have terminated retrospectively; and secondly, sub-section (4) of Section 10 was a provision having an overriding effect on any law for the time being in force. The legislature was also not oblivious to the specific provisions of Section 16(1C) (a) and (b) of the MMC Act, which contemplated a similar effect providing for disqualification of an elected councilor in the event the caste certificate is invalidated by the Scrutiny Committee. No amendment was made to the MMC Act to dilute and/or to take away the effect of what has been provided for in Section 16(1C) (a) and (b).

... ..

34. The Supreme Court in the **Chairman and Managing Director, Food Corporation of India & Ors. vs. Jagdish Balaram Bahira & Ors.**⁷ has taken a review of the legal precedents in regard to the effect which would be brought about once the Caste Certificate is invalidated by the Caste Scrutiny Committee. The conclusions of the said decision are recorded in paragraph 69 of the said decision, in which referring to the decisions in **Madhuri Patil vs. Commr. Tribal Development**⁸, **R. Vishwanatha Pillai vs. State of Kerala**⁹ and **Union of India vs. Dattatray**¹⁰, the Supreme Court has held that where a benefit is secured by an individual on the basis, that the candidate belongs to a reserved category for which the benefit is reserved, the invalidation of the caste or tribe claim upon verification would result in the appointment or, as the case may be, the admission being rendered void or *non est*. It was observed that withdrawal of benefits secured on

7(2017) 8 SCC 670

8(1994) 6 SCC 241

9(2004) 2 SCC 105

10(2008) 4 SCC 612

the basis of a caste claim which has been found to be false necessarily brings about a consequence which flows from the invalidation of the caste claim and no issue of retrospectivity would arise. Considering such clear position in law, we find ourselves in agreement with Mr. Pai in relying on the decision of the Full Bench of this Court in **Sujit Vasant Patil** (supra) wherein the Full bench has categorically held, as to what are the consequences, which would be brought about once the Scrutiny Committee refuses to issue a validity certificate to the Caste Certificate to the candidates, that the nomination itself would not survive and if the nomination would not survive, election cannot survive. It was held that cancellation of the election of such a candidate is a natural consequence of his caste certificate being found to be invalid. The following observations of the Full Bench are required to be noted, which reads thus:

“12-A. Thus, the scheme of the various Local Self-Government Act in relation to the filing of the nomination papers and their scrutiny and the scheme of the Maharashtra Act No. XXIII of 2001 appears to be that in case a person desires to contest an election to a reserved seat, it is obligatory on his part to get a caste certificate from the competent authority and then immediately apply to the Scrutiny Committee to get a validity certificate. Therefore, normally as the candidate is required to make an application to the scrutiny committee as soon as he receives a caste certificate from the competent authority, with the result that in many cases his application before the scrutiny committee for validity certificate would be pending when his nomination paper is accepted on the basis of the caste certificate. If his nomination paper is accepted on the basis of caste certificate issued by the competent authority and as the caste certificate itself is valid subject to the grant of validity certificate, obviously acceptance of his nomination paper as valid will also be subject to the grant of validity certificate by the scrutiny committee. **Therefore, once the scrutiny committee refuses to issue a validity certificate the nomination cannot survive and if the nomination cannot survive, election cannot survive. Therefore, cancellation of the election of such a candidate is a natural consequence of his caste certificate being found invalid.”**

(emphasis supplied)

35. We may also usefully refer to the decision of the Supreme Court in **Kalpna Dilip Bahirat vs. Pune Municipal Corporation & Ors.**¹¹ whereby the provisions of Section 10(4) of 2000 Act fell for consideration of the Supreme Court. In the said case, the appellant contested the elections of Pune Municipal Corporation held in December 2011 to a seat reserved for Other Backward Classes. The appellant had filed proof of her caste under a caste validity certificate dated 3 July, 2008 issued by the Competent Authority. Subsequently, the Caste Certificate on the basis of which the appellant had contested the election was revealed to have never been issued and the Caste Scrutiny Committee passed an order holding that the appellant had not submitted a genuine caste certificate and as a consequence thereof, her election was declared to be *abinitio* null and void. The elected seat has become vacant retrospectively. A challenge was mounted by the appellant before this Court to the disqualification, which was not successful. In these circumstances, the proceedings reached the Supreme Court. The Supreme Court considering the provisions of sub-section (4) of Section 10 of the 2000 Act observed that by virtue of such provisions, the consequence was that the election of the person who contested election on a seat reserved for one of the reserved categories, on a false caste

certificate belonging to such caste, tribe or class, shall be deemed to have been terminated retrospectively. It was observed that the deeming provision in sub-section (4) of Section 10 of the 2000 Act was a statutory fiction which was given effect to and the Commissioner of the Municipal Corporation had given effect to the deeming provision and thus acted in accordance with law. The position is not different, insofar the present proceedings are concerned. The relevant observations as made by the Supreme Court are required to be noted, which reads thus:

9. We have perused sub-section (1) of Section 10 of the 2000 Act and we find that it applies to admission to reserved seat in an educational institution and to appointment to a reserved post in the Government, local authorities, government corporations, government-aided institutions or cooperative societies and will not be attracted to the facts of the case. Instead, the consequences as provided in sub-section (4) of Section 10 of the 2000 Act will follow. Sub-section (4) of Section 10 reads:

“10. (4) Notwithstanding anything contained in any law for the time being in force, a person shall be disqualified for being a member of any statutory body if he has contested the election for local authority, cooperative society or any statutory body on the seat reserved for any of Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category by procuring a false caste certificate as belonging to such caste, tribe or class on such false caste certificate being cancelled by the Scrutiny Committee, and any benefits obtained by such person shall be recoverable as arrears of land revenue and the election of such person shall be deemed to have been terminated retrospectively.”

The consequence is that the election of a person who has contested on a seat reserved for the aforementioned categories on false caste certificate as belonging to such caste, tribe or class “shall be deemed to have been terminated retrospectively”. The deeming provision in sub-section (4) of Section 10 of the 2000 Act is a statutory fiction which has to be given effect to and the Commissioner of the Municipal Corporation has given effect to the deeming provision and has thus acted in accordance with law.”

26. Thus, considering the aforesaid position in law, there was no scope, much less any ground available with the Mayor, to act upon a copy of the Advocate’s notice addressed on behalf of the disqualified corporators. Any action of such nature being resorted by the Mayor was required to wield the basic sanctity in law, and more particularly when such action had a legal consequence on the constitution of the Municipal Corporation. It could not have been taken so as to

derail any lawful process being undertaken by the Corporation or which would result in abdication of any statutory mandate and obligation to be achieved by the Municipal Corporation, as the law would require.

27. It is clear from the reading of the said letter of the advocate of such Corporator(s) that they had taken a clear position that due to the disqualification of their caste certificate by the Caste Scrutiny Committee, the numeric strength of their group stood reduced from four to three for the purpose of election of councillor, which according to them was based upon the disputed disqualification, subject matter of challenge before this Court in the writ petitions instituted by them. It is such contention of the disqualified councillors, which was accepted by the Mayor in postponing the meeting convened to appoint/elect the nominated councillors to be held today (11 September, 2026) at 5 p.m. In such context, we note the contents of paragraph 7 of notice of the Advocate dated 03.09.2026, in which the said Councillor(s) accepted the legal status to be that of a disqualified Councillor(s), which reads thus:

7. Due to the disqualification order passed against my client and another elected member, the numerical strength of my client's group has been reduced from 4 to 3 for the purpose of election of Co-opted Corporators. The said reduction is directly based upon the disputed disqualification, which is already under challenge before the Hon'ble High Court.

28. On the aforesaid conspectus, we clearly find that the Petitioners are not incorrect in their contention that the Mayor has exceeded her power and authority and/or has not acted in accordance with law or has acted for a collateral purpose in taking the impugned decision, which has the effect of defeating the statutory

mandate to nominate the councillors as per the requirement of Section 5(2)(b) read with the provisions of the Rule 3 and 5 of the 2012 Rules (*supra*).

29. There is certainly an obligation under the said statutory provisions that such meeting to nominate the Councillors be held immediately after the expiry of one month from the date of notification of the election results of the general elections, to nominate the councillors as provided in Rule 3 of the 2012 Rules. We thus find that it was not open, nay illegal, for the Mayor to take into consideration the reasons as set out in the advocates notice, addressed to the Commissioner requesting to postpone the SGBM, which was convened for today, merely because the group of the disqualified corporators would suffer a prejudice on account of their disqualification. This could never have been the reason to postpone a statutory meeting. We are of the opinion that it is quite clear that the Mayor has acted for a collateral purpose which cannot be recognized in law as held by the Supreme Court in the case of *Jayantbhai Manubhai Patel (supra)*, when it held as follows:

“18. ...In this regard, in our opinion, although the Mayor had the power to cancel the notice convening the meeting and to direct the secretary to issue a notice in that effect, the said power could be exercised only bona fide and for a purpose or purposes within the scope of the said Act. If the power was exercised mala fide or for a collateral purpose, the exercise of the power would certainly be bad.”

30. Thus, what has been overlooked by the Mayor as also by the Municipal Commissioner in mechanically acting on the recommendations on the orders of the Mayor that the statutory mandate flowing from Section 5(2)(b) of the MMC Act read with Rule 3 of the 2012 Rules stood defeated, as already the process of

nomination of the Councillors was excessively delayed by the Corporation, hence it was of immediate concern for the Corporation to convene such meeting, which in fact ought to have been convened within a period after one month of the declaration of the results of the general elections of the Municipal Corporation. Also, the reasons which were set out in the letters/notices as addressed by the advocates of the disqualified Councillors, in our opinion, were ex facie contrary to law and more particularly contrary to the provisions of Section 10(1C) of the MMC Act (supra) read with Section 10(4) of the 2000 Act (supra), which brought about the situation of a deemed disqualification of the elected councillors on their caste certificate being invalidated.

31. In our opinion, an ill-considered decision of the Mayor as the one impugned in the present proceedings has serious adverse consequences which affected the functioning of the Corporation. It is for such reason in any decision making process being resorted by the Mayor or the Municipal Commissioner, a cautious and careful approach is the necessity and above all, a sound statutory decision being taken is the mandate of law, failing which, such decision would be rendered arbitrary, colourable and/or a decision taken for a collateral purpose, more particularly if the same is on political considerations.

32. We thus find it quite strange that in the facts and circumstances of the present case, the Mayor has acted inappropriately and/or for collateral reasons to indefinitely postpone the SGBM, which was convened to be held today at 5:00 p.m. for appointing the nominated Councillors on the pretext of seeking a legal opinion on the letters/notices of the advocates of the disqualified Councillors. The

reasons as set out by the Mayor in the impugned order/communication dated 4th September 2026 have no basis in law. This apart, we are quite surprised as to how the Municipal Commissioner also acted mechanically and more particularly, considering the substantive provisions of Section 5 of the MMC Act read with Rules of 2012, which were staring at the Municipal Commissioner, knowing well that the statutory mandate was required to be complied in a manner as recognized by law, to appoint the nominated councillors.

33. We are thus of the clear opinion that the impugned order dated 4th September 2026 issued by the Mayor and the consequent communication dated 7th September 2026 of the Municipal Commissioner are illegal and bad in law and would be required to be quashed and set aside.

34. As we are informed by Mr. Sakhare that no nominations were accepted on 7th September 2026 as per the notice dated 31st August 2026, we are of the opinion that it would be in the interest of justice that a fresh notice be issued by Respondent No.3-Mayor to convene a meeting.

35. In the light of the aforesaid discussion, Writ Petition would be required to be partly allowed. It is allowed in the following terms:-

- (i) The impugned communication dated 4 September 2026 issued by the Mayor as also the consequent communication dated 7 September 2026 issued by the Municipal Commissioner whereby the Special General Meeting is scheduled for today (11 September 2026) at 5 p.m., are quashed and set aside.

(ii) The Mayor and the Municipal Commissioner are directed to convene a fresh Special General Meeting to appoint nominated Councilors, by fixing a fresh date on which the nomination forms will be accepted.

(iii) Let the fresh procedure be completed in accordance with law, as ordered.

36. Writ Petition stands disposed of in the aforesaid terms. No costs.

37. At this stage, the learned counsel for Respondent Nos. 1 to 4 has stated that in view of the Ganesh festival which would commence from 14 September, 2026, instead of 10 days, the Mayor/Municipal Commissioner be permitted to convene such meeting within a period of 15 days from today. We accept such request. Accordingly, the meeting be convened within a period of 15 days from today i.e., on or before 25th September 2026.

(DR. NEELA GOKHALE, J)

(G. S. KULKARNI, J.)