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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7511 OF 2015

Kailas Bapurao Thokal

PETITIONER

VERSUS

State Election Commission & Another

RESPONDENTS

WITH
WRIT PETITION NO.7512 OF 2015

Govind Kacharu Mache

PETITIONER

VERSUS

State Election Commission & Another

RESPONDENTS

WITH
WRIT PETITION NO.7513 OF 2015

Rukhmanbai Narayan Kadam

PETITIONER

VERSUS

State Election Commission & Another

RESPONDENTS

WITH
WRIT PETITION NO.7514 OF 2015

Kusumbai Haribhau Kadam

PETITIONER

VERSUS

State Election Commission & Another

RESPONDENTS

WITH
WRIT PETITION NO.7515 OF 2015

Mansub Ahilaji Sonawane

PETITIONER

VERSUS

State Election Commission & Another

RESPONDENTS

WITH
WRIT PETITION NO.7516 OF 2015

Kantabai Sanjay Kadam

PETITIONER

VERSUS

State Election Commission & Another

RESPONDENTS

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Mr. R. V. Gore, Advocate for the petitioner

Mr. S. K. Tambe, Mr. S. P. Daund, AGP for respondent State

Mr. S. T. Shelke, Advocate for respondent No.1

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 23rd JULY, 2015

ORDER :

1. The petitioners are before this Court taking exception to the order rejecting their nominations for want of certificate referable to section 14 (j-5) of the Maharashtra Village Panchayat Act, 1959.

2. Learned advocate for the petitioners submits that having regard to phraseology used in section 14 (h) and 14 (j-5), it should be deemed that such an explanation as in the case of section 14 (h), particularly explanation (2) (i), similar facility shall be deemed to be available to the petitioners. He submits

that absence of explanation like (2) (i) to section 14 (h) for section 14 (1) (j-5), it shall not be deemed that requirement under section 14 (j-5) is mandatory.

3. Learned advocates for the respondents, however, submit that section 14 of the Maharashtra Village Panchayats Act prescribes disqualification of a person from being a member and to continue to be a member and one of the requirements in the same is having a toilet and its user. Same is to be ascertained by making available requisite certificate pursuant to section 14 (j-5) of the Act, while elections are being held for being members of Gram Panchayat. Such pre-requisites are to be seen to be complied with by the persons concerned and for said purpose candidates are obligated to produce required certificates. Having regard to absence of certificates in the cases of the petitioners, their nominations have been rightly rejected by the returning officer, for, they do not qualify to be members of Gram Panchayat in absence of compliance of requirements with reference to section 14 (j-5) of the Act. As a matter of fact, according to them that the statute refers to it as disqualification. It is, therefore, submitted that there is no substance in the writ petitions.

4. Having regard to aforesaid submissions, even if submissions advanced on behalf of the petitioners are considered, that since there is no explanation as in the case of section 14 (h) vide explanation (2) (i), perusal of the same would show that the action contemplated in the explanation enables persons concerned to qualify and be eligible to be member or to continue to be a member, for, only on removal of the default / deficiency prior to the date of nomination.

5. In the present case, the petitioners have not come with a case that they have removed deficiencies before the date of nominations in order to enable them to have parity with explanation (2) (i) to section 14 (h) of the Act. The position thus clearly emerges that the petitioners do not comply with or satisfy the condition for being members of the Gram Panchayat for failure to submit requisites with reference to section 14 (j-5), no fault can be found with the orders impugned. Writ petitions, as such, stand rejected.

[SUNIL P. DESHMUKH, J.]