

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 9121 OF 2016

Shri Kisan S/o Mahadrao Sonune,
Age: 40 years, Occu. : Agril.,
R/o Veltura, Tq. Sengaon,
Dist. Hingoli.

... PETITIONER

VERSUS

1. The State of Maharashtra,
Through Additional Collector,
Hingoli, Dist. Hingoli.
2. The Tahasildar,
Sengaon, Dist. Hingoli.
3. Sangita W/o Shamrao Sanap,
Age 42 years, Occu. Household,
R/o Veltura, Tq. Sengaon,
Dist. Hingoli.

... RESPONDENTS

(Copy of Respondent Nos.1 & 2
are to be served through the Govt.
Pleader, High Court of Bombay,
Bench at Aurangabad)

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Mr. M. S. Shaikh, h/f Mr. Sachin S. Kulkarni, Advocate for Petitioner.

Mr. S. R. Yadav, AGP for Respondent Nos.1 & 2.

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CORAM : **T. V. NALAWADE, J.**
DATE : 25th October, 2016.

ORAL JUDGMENT:

. Rule. Rule made returnable forthwith. Both the sides are heard. Nobody turned up for Respondent No.3 even when the notice of present proceeding is duly served.

2 The proceeding is filed to challenge the order made by the learned Additional Collector, Hingoli, in disqualification proceeding filed by the Petitioner against Respondent No.3. The proceeding was filed on the ground that the caste validity certificate, which is required to be produced within six months from the date of election, was not produced till the date of filing of the proceeding i.e. till 11th April, 2016.

3 The learned Additional Collector has observed that there is nothing in Section 10-1A of the Village Panchayat Act to show where such proceeding can be filed.

4 Provisions of Section 10-1A read with Sections 14 and 16 show that when certificate is not produced within the period fixed in Section 10-1A, the disqualification is incurred by the said Member. Such disqualification is covered by Section 14 as there is other clause like 14-1K. Section 16 shows that the Collector has the power to give

decision on the disqualification. In view of these circumstances, the order made by the learned Additional Collector cannot sustain in law.

5 Service affidavit in respect of Respondent No.3 is filed on record. This Court is not passing any order adverse against Respondent No.3 and only giving directions to the Collector to decide disqualification proceeding needs to be given and so there is no need to wait for further period for appearance of Respondent No.3. In the result, the petition is allowed. The order made by the learned Additional Collector on 17th June, 2016 in proceeding filed by the present Petitioner is hereby set aside. The matter is restored to its original number. The learned Collector to follow the procedure given under the aforesaid provisions. The Collector to expedite the hearing of the matter and in any case decide the same within three months from the date of receipt of this order. Rule is made absolute in above terms.

[T. V. NALAWADE, J.]