

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12089 OF 2016

Smt. Kalabai wd/o Amruta Randhir,
Age : 69 years, Occu. Household,
R/o Nandur, Tq. Rahata,
District Ahmednagar

PETITIONER

VERSUS

1. The State of Maharashtra
through the Secretary for
Rural Development Department,
Mantralaya, Mumbai
2. The Additional Collector,
Ahmednagar, Dist. Ahmednagar
3. The Sub-Divisional Officer,
at Shirdi, Tq. Rahata,
District Ahmednagar
4. The Tahsildar, Rahata,
Tq. Rahata, Dist. Ahmednagar

RESPONDENTS

Mr. Ashwin V. Hon, Advocate for the petitioner
Mr. K.D. Munde, A.G.P. for the respondents/State

CORAM : R.M. BORDE AND
SANGITRAO S. PATIL, JJ.
DATE : 8th December, 2016

ORAL JUDGMENT (PER : R.M. BORDE, J.) :

Heard.

2. Rule. Rule made returnable forthwith. With
the consent of the learned counsel for the petitioner

and the learned A.G.P., the petition is taken up for final hearing and disposal at the stage of admission.

3. The petitioner is objecting to the order, dated 28th September, 2016, passed by the Additional Collector, Ahmednagar, directing cancellation of the election of the petitioner, thereby disqualifying him as Member of Gram Panchayat, Nandur, Taluka Rahata with retrospective operation from the date of tendering of nomination paper by her. The order has been issued in exercise of powers under Section 10 (1) (A) of the Maharashtra Village Panchayat Act, 1958.

4. The petitioner claims to belong to Mahar caste, which is included in Scheduled Castes and has been elected as Member of the Village Panchayat, Nandur, Taluka Rahata as against a seat reserved for the candidate belonging to Scheduled Caste. Since the petitioner contested election for the reserved seat, the caste certificate issued to her was referred for verification to the competent Scrutiny Committee. The Scrutiny Committee failed to decide the matter within stipulated period. In the circumstances, as a result of failure of the petitioner to submit the caste validation

certificate, the Additional Collector, Ahmednagar took up the issue on reference by the Tahsildar and proceeded to pass the order, holding the petitioner disqualified to continue as a Member of Village Panchayat with retrospective operation.

5. The petitioner states that on 25th October, 2016, the Caste Certificate Scrutiny Committee, Ahmednagar decided the matter and upheld the claim of the petitioner as belonging to Mahar Caste and issued the Validity Certificate on 25th October, 2016. In the given facts, a request is made for quashing of the order dated 28th September, 2016, passed by the Additional Collector, Ahmednagar, holding the petitioner disqualified to continue as Member of the Village Panchayat.

6. It must be noted that the caste certificate verification proposal was pending with the Scrutiny Committee since July, 2015 and the decision came to be rendered only in October, 2016. The petitioner does not have any control over the proceedings pending before the Scrutiny Committee and it is unreasonable to expect the petitioner to secure a decision in the matter from

the Scrutiny Committee within time framed stipulated.

7. In the matter of **Dadasaheb Arjun Gulve Vs. The State of Maharashtra, 2008 (2) Bom.C.R. 712**, this Court has held the requirement of production of validation certificate within stipulated time, as directory. Similar view has been adopted by the learned Single Judge of this Court in the matter of **Alka w/o Rajkaran Kshirsagar Vs. Sau. Shalini w/o Mahadeo Lokhande and others in Writ Petition No. 3963 of 2013**, decided on 16th September, 2016.

8. In this view of the matter, the action of the Collector, holding the petitioner disqualified to continue as a Member of Village Panchayat is unsustainable and deserves to be quashed and set aside. The order dated 28th September, 2016, passed by the Additional Collector, Ahmednagar is quashed and set aside. Rule is accordingly made absolute. There shall be no order as to costs.

[**SANGITRAO S. PATIL**]
JUDGE

[**R.M. BORDE**]
JUDGE