

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR

Writ Petition No.2736 of 2016  
(Sau. Sharda Suresh Ingole v. The Additional Commissioner, Amravati  
Division, Amravati, and others)

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Office Notes, Memoranda of Coram,  
appearances, Court's orders or directions      Court's or Judge's orders  
and Registrar's order

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Shri S.D. Chopde, Advocate for Petitioner.  
Ms Geeta Tiwari, AGP for Respondent Nos.1 and 2.  
Shri R.D. Bhuibhar, Advocate for Respondent Nos.4 and 5.

**Coram : R.K. Deshpande, J.**  
**Date : 10<sup>th</sup> October, 2016**

The petitioner has been disqualified under the provision of 14(1)(j-5) of the Maharashtra Village Panchayats Act, 1959, which runs as under :

*“14. **Disqualifications.**-(1) No person shall be a member of a Panchayat continue as such, who-*

*(j-5) fails to submit a certificate of the concerned panchayat, alongwith the resolution of the Gram Sabha certifying that,--*

*(i) he resides in a house owned by him and has a toilet in such house and he regularly uses such toilet; or*

*(ii) he resides in a house not owned by him and has a toilet in such house and he regularly uses it or he has no such toilet but regularly uses the public toilet:*

*Provided that, no member of a panchayat shall be disqualified under this clause, if he submits such certificate to the Block Development Officer, within a period of one year from the 10<sup>th</sup> January, 2011, being the date of commencement of the Bombay Village Panchayats and Maharashtra Zilla Parishads and Panchayat Samitis (Second Amendment) Act, 2010 (Mah. XXXIII of 2010):*

*Provided further that, nothing contained in this clause shall affect the member holding office on the 10<sup>th</sup> January, 2011, who has not submitted the certificate within a period of ninety days from the said date, as required under the provisions of this Act, as amended by the Bombay Village Panchayats and Maharashtra Zilla Parishads and Panchayat Samitis (Second Amendment) Act, 2010 (Mah. XXXIII of 2010); and he shall not be deemed to be disqualified and shall continue to hold his office for a period of one year from the said date, unless he is disqualified under any other provisions of this act or any other law for the time being in force.”*

In the decision of this Court in the case of *Vijay Ramchandra Raut v. Divisional Commissioner, Amravati Division and others*, reported in 2014(3) Mh.L.J. 641, it has been held that the resolution and certificate under the aforesaid provision signifies that the candidate desirous of contesting the election of Gram Panchayat has a toilet and is using the said facility on the date of filing of the nomination paper. In the present case, the election was held in the year 2012, and it is not the case that along with the nomination paper, the resolution and certificate, as contemplated by the aforesaid provision, was filed to contest the election. It is not the case that the petitioner is entitled to protection under the provisos. The controversy is no longer *res integra* in view of the aforesaid decision, which is followed in the decision of this case in the case of *Nimba Dashrat Koli and another v. State of Maharashtra and others*, reported in 2015(3) Mh.L.J. 598.

In the present case, the certificate of Gram Panchayat produced on record was obtained subsequently, i.e. on 25-1-2016, which is of no consequence.

In view of above, no fault can be found with the view taken by the authorities below.

The petition is dismissed.

At this stage, Shri Chopde, the learned counsel for the petitioner, submits that the protection be granted for a further period of six weeks so as to enable the petitioner to avail the appropriate remedies available in law. The prayer is opposed by the respondents. In view of the fact that the controversy is covered by the decisions of this Court, cited supra, the question of grant of protection does not arise. The prayer is rejected.

Judge.

Lanjewar

CERTIFICATE

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