

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

WRIT PETITION NO.1976 OF 2017

Kanchan w/o Kailas Poul
age 30 years, Occu. Agril.,
R/o Farkanda, Tq. Palam,
District Parbhani

... PETITIONER

VERSUS

1. The State Election Commission,
Maharashtra State, Mumbai.
2. The Returning Officer,
Zilla Parishad and Panchayat Samitis
General Election - 2017
for 44- Raoraju Constituency,
Palam, Tq. Palam,
District Parbhani.

(Copy of respondent Nos.1 and 2
is to be served through the
Standing Counsel for respondents
at High Court, Bench at Aurangabad)

3. Saili w/o Ganesh Waghmare,
Age 30 years, Occu. Household,
R/o Sarfarazpur, Tq. Palam,
District Parbhani.
4. Sonali w/o Sandip Patil,
Age 28 years, Occu. Agri.,
R/o Khurlewadi, Tq. Palam,
District Parbhani.
5. Sangita w/o Achutrao Patharkar,
Age 35 years, Occu. Household,
R/o Ghoda, Ta. Palam,
District Parbhani.

6. Parwati w/o Shankar Waghmare,
Age 50 years, Occu. Agri.,
R/o Sarfarazpur, Tq. Palam,
District Parbhani
7. Vijaymal w/o Pandurang Kholage,
Age 40 years, Occu. Agri.,
R/o Anjanwadi, Tq. Palam,
District Parbhani. ... RESPONDENTS

.....
Shri G.P. Sawant, Advocate for petitioner
Shri S.T. Shelke, Advocate for respondent Nos.1 and 2
Shri V.M. Maney, Advocate for respondent No.6
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W I T H

WRIT PETITION NO.1999 OF 2017

Sunita Suresh Khandekar,
Age 33 years, Occu. Household,
R/o Dhangarmoha, Post Harangul
Tq. Gangakhed, District Parbhani ... PETITIONER

VERSUS

1. The Returning Officer for the
elections of Panchayat Samiti,
Gangakhed and Zilla Parishad,
Parbhani.
2. Ashabai Limbaji Deokate,
Age 40 years, Occu. Household,
R/o Pokharni (Walke), Tq. Gangakhed,
District Parbhani.
3. Chandrakala w/o Raju Deokate,
Age 35 years, Occu. Household
R/o Pokharni (Walke), Tq. Gangakhed,
District Parbhani.
4. Shubhangi w/o Prataprao Sisode,
Age 42 years, Occu. Household,

R/o Makhani, Tq. Gangakhed,
District Parbhani

5. Sarika w/o Madhavrao Shendge,
Age 38 years, Occu. Household,
R/o Makhani, Tq. Gangakhed,
District Parbhani ... RESPONDENTS

.....
Shri P.D. Bachate, Advocate for petitioner
Shri S.T. Shelke, Advocate for respondent Nos.1 and 2
.....

CORAM: S. B. SHUKRE, J.

DATED: 10th February, 2017.

ORAL JUDGMENT :

1. Head learned counsel for the petitioners, Shri Shelke, learned counsel for respondent Nos.1 and 2 and Shri Maney, learned counsel for respondent No.6 in Writ Petition No.1976/2017. The other respondents are served through paper publication as well as notice displayed on the notice board of respondent No.1 by the Returning Officer.

2. Rule. Rule made returnable forthwith and heard finally by consent of learned counsel for the contesting parties.

3. These petitions challenge the legality and correctness of the judgment and order dated 7/2/2017, passed in Election Appeals No.3/2017 and 4/2017, involving an identical question relating to incorrect rejection of the nomination papers on the

ground that caste validity certificate has not been submitted by the both the petitioners in accordance with the requirement of law.

4. It is not in dispute that both the petitioners, though submitted caste validity certificates, the caste validity certificates were not issued by the authority prescribed under the provisions 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 (Caste Certificate Act, 2000 for short).

5. Section 12-A of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 reads as follows :

"12-A. Person contesting election for reserved seat to submit Caste Certificate and Validity Certificate :-

Every person desirous of contesting election to a seat reserved for Scheduled Castes, Scheduled Tribes or, as the case may be, Backward Class of Citizens, shall be required to submit along with the nomination paper, Caste Certificate issued by the Scrutiny Committee in accordance with the provisions of 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 (Mah. XXIII of 2001)."

6. It is clear from the above provision that the caste validity certificate to be produced by a candidate interested to contest the election must be one which has been issued in accordance with the provisions of the Caste Certificate Act, 2000. Since it is not in dispute that the caste validity certificates produced by the petitioners were issued not in accordance with the provisions of the said Act, I do not see any illegality in the impugned orders passed by the District Court.

7. There is no substance in the Writ Petitions. The Writ Petitions are dismissed with costs. Rule discharged.

8. It is made clear that, these observations shall not come in the way of the points to be canvassed by the interested parties in the election dispute, if initiated after completion of the elections.

(S. B. SHUKRE)
JUDGE

fmp/