

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

WRIT PETITION NO. 13307 OF 2017

Ashvini Machindra Pawale

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri Shaikh Ashraf Patel, Advocate h/f Shri A. P. Avhad,
Advocate for the Petitioner.

Shri C. S. Kulkarni, A.G.P. for Respondent Nos. 1 to 5.

**CORAM : S. V. GANGAPURWALA AND
S. M. GAVHANE, JJ.**

DATE : 29TH NOVEMBER, 2017.

FINAL ORDER :

. The petitioner is disqualified as a member of the Gram Panchayat on the ground that the petitioner has failed to submit the validity certificate within a period of six months as required U/Sec. 10(1-A) of the Maharashtra Village Panchayat Act.

2. The learned counsel for the petitioner submits that, the petitioner had contested the election from the reserved S. C. category. Only on the ground that validity is not submitted within six months, the petitioner is disqualified under the impugned order dated 23.12.2016. The petitioner has been issued with the validity certificate on 29.02.2016. The learned counsel

submits that, the petitioner tried to submit the validity certificate with the authority, but the same was not accepted. The post held by the petitioner is still vacant. No elections have been held.

3. The learned Assistant Government Pleader submits that, the Full Bench of this Court in a case of Anant H. Ulahalkar and another Vs. Chief Election Commissioner reported in *2017(1) Mh.L.J. 431* has held that, proceeding U/sec. 10(1-A) of the Maharashtra Village Panchayat Act to be mandatory.

4. We have considered the submissions. It is matter of record that, the petitioner has been issued with the validity certificate prior to the order passed by the authority disqualifying the petitioner as a member of Gram Panchayat.

5. Though the Full Bench of this Court in a case of Anant H. Ulahalkar and another Vs. Chief Election Commissioner referred to supra has held the provisions of Sec. 10(1-A) of the Act to be mandatory, the Apex Court in S.L.P. No. 31479 of 2016 with connected S.L.P.'s under order dated 13.02.2017 has stayed the judgment of the Full Bench of this Court.

6. In view of the above, we pass following order.

7. The impugned order disqualifying the petitioner is quashed and set aside. In case the Apex Court confirms the judgment of the Full Bench of this Court, liberty to the respondents to initiate fresh action. The writ petition accordingly is allowed. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Nov. 17