

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.13641 OF 2017

Tukaram Ramchandra Kumbhar

...Petitioner

Versus

The Additional Commissioner, Pune
Division & Ors.

...Respondents

.....

Mr. V.R. Gaikwad for the Petitioner.

Mr. P.G. Sawant, learned AGP for the Respondents

**CORAM : RANJIT MORE AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : 19th DECEMBER, 2017.

P.C. :-

Heard Mr. Gaikwad, learned counsel for the Petitioner and
Mr. P.G. Sawant, learned AGP for the Respondents.

2. By this Petition, filed under Article 226 of the Constitution of India, the Petitioner is challenging the order dated 9th November, 2016 passed by the Respondent No.2-Additional Collector, Satara, whereby the Petitioner has been disqualified to hold the post of member of Village Panchayat, Yenake, under the provision of Section 10-1A of the Maharashtra Village Panchayats Act.

3. Election of village panchayat Yenake was held in the month of August-2015. The Petitioner got elected on a seat reserved for Other Backward Class from the Ward No.1 of the said village. It is the specific case of the Petitioner that he had submitted the caste validity certificate alongwith his nomination form. Despite this Additional Collector disqualified the Petitioner. The Petitioner subsequently filed an appeal, which has also been dismissed.

4. The record reveals that the Block Development Officer had asked for information from Gramsevak, Yenake regarding the particulars of the Caste Validity Certificate of the elected members of the said village panchayat. The Gramsevak, by letter dated 15th June, 2016, gave particulars of the caste validity certificates of the elected members. So far as the Petitioner is concerned, the Gramsevak specifically informed the Block Development Officer that the Petitioner has submitted the caste validity certificate alongwith the nomination form.

5. The Gramsevak in turn submitted the information regarding the particulars of the caste validity certificate of the elected members of the village, Yenake to the Tahasildar by his letter dated 2.7.2016 and the Tahasildar in turn submitted the said information to the Collector.

Relying upon this information, the Collector passed the impugned order disqualifying the Petitioner.

6. So far as the Petitioner's case is concerned, the record further reveals that the Block Development Officer and Tahasildar have made an inadvertent error. He has recorded that the caste validity certificate was submitted on 14.6.2016. The fact that this was not a correct position is fortified by subsequent letter dated 21.12.2016 by Tahasildar to the Petitioner, copy of which is annexed at Exhibit-J. In this letter the Tahasildar has mentioned that the Petitioner had submitted the caste validity certificate alongwith the nomination form. The learned AGP also does not dispute that the Petitioner had submitted the caste validity certificate alongwith the nomination form.

7. Under Section 10-1A of the Maharashtra Village Panchayats Act every person desirous of contesting election on a seat reserved for Scheduled castes, Scheduled Tribes or, as the case may be, Backward Class of Citizens, is required to submit, alongwith the nomination paper, Caste Certificate issued by the Competent Authority and Validity 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. Proviso to Section 10-1A provides that for the general and by-elections for which the last date of filing of nomination falls on or before 31.12.2017, in accordance with the election programme declared by the State Election Commission, a person, who has applied to the Scrutiny Committee for verification of his Caste Certificate before the date of filing of the nomination papers but who has not received the validity certificate on the date of filing of the nomination papers, is required to submit- (i) a true copy of the application preferred by him to the Scrutiny Committee for issuance of validity certificate or any other proof of having made such application to the Scrutiny Committee and (ii) undertaking to submit within a period of six months from the date on which he is declared elected, the validity certificate issued by the Scrutiny Committee. The second proviso provides that if the person fails to produce the Validity Certificate within a period of six months from the date on which he is declared elected, his election shall be deemed to have been terminated retrospectively and he shall be disqualified for being a member.

8. So far as the present case is concerned, neither this section nor the proviso to section 10-1A is applicable as much as the Petitioner

had submitted the caste validity certificate alongwith his nomination. The impugned orders proceed on the premise that the Petitioner did not submit the caste validity certificate alongwith the nomination form and therefore, it was mandatory for him to submit the same within a period of six months.

9. Undisputedly, the Petitioner had submitted caste validity certificate alongwith the nomination form. The impugned orders passed by the Additional Collector as well as the Additional Commissioner, Pune Division proceed on a wrong premise and hence cannot be sustained. The orders passed by the Additional Collector and Additional Commissioner are accordingly quashed and set aside qua the Petitioner.

10. All concerned to act on an authenticated copy of this order.

(SMT. ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)