

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

19 WRIT PETITION NO. 740 OF 2002

KARBHARI BHIMRAO SHINDE
VERSUS
THE STATE OF MAHARASHTRA & ORS.

...
Advocate for Petitioner : Shri Kale M.P.
AGP for Respondents 1 to 3 : Shri Kulkarni P.M.

...
CORAM : RAVINDRA V. GHUGE, J.
Dated: October 20, 2018
...

PER COURT :-

1 The petitioner is aggrieved by the two orders, passed by the Additional Collector, dated 22.2.2001 and passed by the Additional Divisional Commissioner dated 31.12.2001, by which, it was concluded under Section 16 of the Maharashtra Village Panchayats Act, that this petitioner deserves to be disqualified since he had contested the election to a position reserved for the backward class on the basis of the caste certificate of his brother. The ground raised is whether the District Collector can have the powers to decide this issue under Section 16 of the said Act.

2 Interim relief was granted to the petitioner by staying both the impugned orders. Learned counsel, therefore, submits that the petitioner had enjoyed his elected tenure.

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

2- WRIT PETITION NO. 740 OF 2002

3 I find that this petition is rendered of an academic interest for the reason that Section 10(1A) has been introduced in the said Act and Section 9A has been introduced in the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 mandating submission of a caste / tribe validity certificate within six months from the date of elections to a reserved position. The judgment delivered by the learned Full Bench of this Court in the case of Anant H. Ulahalkar Vs. Chief Election Commissioner and others [2017 (1) Mah. L.J. 437], upholding Section 9A, has been sustained by the Honourable Apex Court in the case of Shankar Raghunath Devre (Patil) Vs. State of Maharashtra - SLP(C) Nos.29874-29875 of 2016, delivered on 27.6.2018.

4 In view of the above, the issue of any citizen or member of the constituency questioning a caste certificate of the elected candidate and seeking his disqualification would normally not arise in view of Section 9A and Section 10(1A) of the respective Acts.

5 This petition is, therefore, disposed off. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

...