

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

WRIT PETITION NO. 1666 OF 2017

ARUNABAI SADASHIV GANJELE
VERSUS
THE ADDITIONAL COMMISSIONER AURANGABAD AND OTHERS

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Advocate for the Petitioner : Shri A.A.Khande.
AGP for Respondents 1 and 2 : Shri S.R.Yadav.
Advocate for Respondent 3 : Shri V.S.Kadam.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 05th July, 2018

Per Court:

1 I have heard the learned Advocates for the respective sides.

2 Issue is as regards Section 10-1A of the Maharashtra Village Panchayats Act, whereby, a candidate elected to a post reserved for any backward class, has to submit his caste/tribe validity certificate within six months from the date of the election. The learned Full Bench of this Court has held in Anant H. Ulahalkar Vs. Chief Election Commissioner [2017(1) Mh.L.J.431], that the 6 months' period under Section 9A of the Municipal Councils Act is mandatory and any candidate, who fails to submit his validity certificate within 6 months, would incur disqualification automatically after the period of 6 months from the date of the declaration of his.

3 The Hon'ble Apex Court is said to be seized of a group of special leave petitions involving the same issue in view of the learned Full Bench judgment in Anant H.Ulahalkar (supra). Protection has been granted to such disqualified candidates for having failed to submit their validity certificates within 6 months.

4 The petitioner is declared elected as a member of the Gram Panchayat on 06/08/2015. Her application to the Scrutiny Committee for validation of her caste certificate was submitted and it was pending. However, the District Collector has disqualified the petitioner by order dated 05.11.2016. Her appeal has also been dismissed by the Additional Commissioner vide order dated 03.01.2017. Meanwhile, the Petitioner's caste claim was validated by the Scrutiny Committee on 23.12.2016 and the same was received to the Petitioner on 05.01.2017 i.e. after the order passed by the Additional Commissioner.

5 Learned Advocate for the petitioner has cited two orders passed by the learned Division Bench of this Court on 23/04/2018 in WP No.5402/2017 alongwith other matters and on 20/06/2018 in WP No.6133/2018 by which, it is concluded that, pursuant to the decision of the Hon'ble Apex Court, the Authorities can resort to a fresh action against the petitioner. The said petitions are disposed of.

6 It requires no debate that if the view taken in Anant Ulahalkar case (supra) is sustained by the Hon'ble Apex Court, the disqualification of

the petitioner by order dated 05.11.2016 shall stand automatically sustained. If the Hon'ble Apex Court takes a different view and by virtue of the said view, if the petitioner is protected, the impugned order of disqualification would automatically stand set aside and no further action would be required to be initiated against the petitioner.

7 With the above observations, this Writ Petition is disposed of. The protection granted by the Hon'ble Apex Court in the bunch of cases before it, would protect the petitioner herein until the decision of the Hon'ble Apex Court in the pending cases and subject to the observations set out in the foregoing paragraphs.

kps

(RAVINDRA V. GHUGE, J.)