

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

WRIT PETITION NO. 1841 OF 2017
WITH
CIVIL APPLICATION NO. 3006 OF 2017

Shanta W/o Subhash Sonawane ...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. S.S. Thombre, Advocate for Petitioner
Mr. S.Y. Mahajan, AGP for Respondent No.1
Mr. M.S. Karad, Advocate for Respondent No. 4
Mr. P.R. Katneshwarkar h/f Mr. G.B. Kulkarni, Advocate for
Respondent No. 5 and 6

**CORAM : PRASANNA B. VARALE AND
MANISH PITALE, JJ.**

DATE: 7th SEPTEMBER, 2018

ORAL ORDER :

1. Heard Mr. Thombre, the learned Counsel appearing for the petitioner.
2. The facts which are not disputed and giving rise to the present petition are that the respondent No. 5- Mr. Narayan S/o Tejrao Sonawane and respondent No. 6- Mr. Madhukar S/o. Jawanta Sonawane approached the District Collector by raising the dispute against the petitioner Smt. Shanta W/o.

Subhash Sonawane, who was Member and Sarpanch of the Gram Panchayat. It was submitted that Smt. Shanta Sonawane was elected to the Gram Panchayat from the post reserved for category candidate. In spite of the specific directions and the requirements, the petitioner Smt. Shanta Sonawane failed to submit caste validity certificate within stipulated period. As such, the failure of the petitioner leads to disqualification of the petitioner holding the post as a Member and Sarpanch of the Panchayat. The District Collector by order dated 28.09.2016/24.01.2017 found favour in the dispute raised by the respondent Nos. 5 and 6. Resultantly, by allowing the dispute, the District Collector declared petitioner Smt. Shanta Sonawane as a disqualified candidate. Being aggrieved by the said order, the petitioner is before this Court on 28th February, 2017. At the relevant time, when the interim order was passed, the fact situation was of stay granted by the Hon'ble the Apex Court to the Full Bench judgment of this Court in the case of **Anant Ulhalkar Vs. Chief Election Commission**, reported in **[2017 (1) Mh.L.J. Page 431]**. Now in the passage of time, the issue is set at rest by the Hon'ble the Apex Court and the Special Leave Petition was decided on 23.08.2018. The

Apex Court observed in para Nos. 7 and 8 as under :-

“We have read and considered the very elaborate reasoning adopted by the Full Bench of the High Court in coming to its conclusions that the aforesaid provisions of the statute engrafts a mandatory requirement in law. The High Court, in our considered view, very rightly came to the aforesaid conclusion along with the further finding that equities in individual case(s) would not be a good ground to hold the provisions to be directory. In fact, the High Court has supported its decision by weighty reasons to hold that reading the provisions to be directory would virtually amount to rendering the same to be negatory.

Compounded is the fact that the proviso was deleted in the year 2008 and reintroduced in the year 2012. The same would go to show that sans the proviso the main provision would debar a candidate who does not possess a validity certificate from contesting the election as a reserved category candidate. If that is so the proviso has to be strictly construed and the deeming provision contained in the second proviso together with the plain language used can lead to only one conclusion, namely, that the legislative intent was to make the provision of the statute mandatory irrespective of individual hardships.

We, therefore, are of the view that the High Court of Bombay was perfectly justified in coming to the impugned conclusion on the basis of the reasoning that was adopted, which we hereby affirm. Consequently, we dismiss all the special leave petitions and pending applications.

3. In view of the authoritative judicial pronouncement on law by the Hon'ble the Apex Court, nothing survives in the

Writ Petition. The petition being thoroughly meritless, deserves to be dismissed and the same is accordingly dismissed.

4. The pending Civil Application stand disposed of.

(MANISH PITALE)
JUDGE

(PRASANNA B. VARALE)
JUDGE

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