

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2271 OF 2018

SUSHILABAI GAUTAM BANSODE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Smt.Chincholkar Surekha G.
AGP for Respondents 1 to 3: Shri Yadav-Lonikar S.R.
Advocate for Respondents 6 : Shri Syed G.R.
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CORAM : RAVINDRA V. GHUGE, J.
Dated: March 20, 2018
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PER COURT :-

1. I have heard the learned Advocate for the petitioner, learned AGP on behalf of respondent Nos.1 to 3 and Shri Syed, learned Advocate on behalf of respondent No.6, at length.

2. Considering the fact situation and the effect of Section 14(1)(j-1) of the Maharashtra Village Panchayats Act, I am not required to consider the controversy as to whether the 5th child of the petitioner / Sarpanch, Master Shuddhodhan is born on 25.8.2001 as is claimed or on 24.8.2004 as is contended by respondent No.6, for the reasons as follows:-

(a) Section 14(1)(j-1) reads as under:-

"S.14. Disqualifications:-

(1) No person shall be a member of a panchayat continue as such, who -

(j-1) if he has more than two children :

Provided that, a person having more than two children on the date of commencement of the Bombay Village Panchayats and the Maharashtra Zilla Parishads and Panchyat Samitis (Amendment) Act, 1995 (hereinafter in this clause referred to as "the date of such commencement"), shall not be disqualified under this clause so long as the number of children he had on the date of such commencement does not increase :

Provided further that, a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification mentioned in this clause; or....."

(b) Considering the phraseology used in the said provision, it is apparent that, with the amendment introduced by Clause (j-1) on 13.9.2000, that candidate who has more than two biological children would not be disqualified on the condition that the number of his children as on the date of such commencement, does not increase.

(c) In the instant case, even if it is taken that Shuddhodhan was born on 25.8.2001, on the date of

commencement of the amended Act 13.9.2000, the petitioner has four children. The proviso mandated that she or her husband, as the case may be, would not be disqualified as long as the number of children as on the date of such commencement, does not increase.

(d) Since Shuddhodhan is claimed to have been born on 25.8.2001, the petitioner would stand disqualified as, on the date of the amendment, she had four children and the birth of Shuddhodhan is violative of the proviso to clause (j-1).

3. Considering the above, I do not find that the impugned orders passed by the competent authorities disqualifying the petitioner could be termed as being perverse or erroneous.

4. This petition is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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