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

WRIT PETITION NO.2939 OF 2017

Sahebsing S/o Ramchandra Gumladu ..PETITIONER

VERSUS

The State of Maharashtra & ors. ..RESPONDENTS

Mr C.V. Bodkhe, Advocate holding for Mr R.V. Gore, Advocate for petitioner;

Mr C.S. Kulkarni, A.G.P. for respondents no.1 to 4;

Mr S.K. Chavan, Advocate for respondent no.5

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

DATE : 26th September, 2018

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner.

2. Perused the order of this Court dated 7th March, 2017. The protection was granted to the petitioner in view of the earlier order passed by the Honourable the Apex Court on 13th February, 2017. As the Apex Court subsequently on 23rd August, 2018 affirmed the order of the Full Bench of this Court, the relevant observations of the Honourable the Apex Court are at page 7, which read thus :-

“We have read and considered the very elaborate reasoning

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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 provision 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.”

3. In view of the order passed by the Honourable Apex Court, the petition fails. Resultantly. The petition deserves to be dismissed. Accordingly, the petition is dismissed. Needless to state that the interim protection granted to the petitioner stands vacated.

**Anant
Manohar
Joshi**

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Anant Manohar Joshi
Date: 2018.09.27
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(MANISH PITALE, J.)

(PRASANNA B. VARALE, J.)

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