

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

2 WRIT PETITION NO. 2634 OF 2017
WITH
WRIT PETITION NO.2635 OF 2017
WITH
WRIT PETITION NO.2636 OF 2017
WITH
WRIT PETITION NO.2637/2017

JIJABAI NIRANJAN BHARTI,
MADHAV DHONDIBA WAGHMARE,
SHESHIKALA RAMDAS PANCHAL AND
SUNDARBAI VITTHAL HAMNATE.

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Gaikwad Anil M..
AGP for Respondents 1 and 2 : Shri S.R.Yadav.
Advocate for Respondent 3 : Shri Deshmukh Umakant B.

...

3 WRIT PETITION NO. 4236 OF 2017

EKNATH SHANKAR GAWALI

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioner : Shri Sunil B. Jadhav h/f Shri Bodkhe
Bhaginath T..
AGP for Respondents 1 and 2 : Shri B.A.Shinde.
Advocate for Respondent 4 : Shri A.G.Deshmukh.

...

6 WRIT PETITION NO. 4177 OF 2015

KHUSHAL DULA BHIL AND OTHERS

VERSUS

STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Patil Paresh B..

AGP for Respondents 1 to 3 : Shri S.R.Yadav.
Advocate for Respondent 4 : Shri Yenegure Apparao.

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8 WRIT PETITION NO. 3292 OF 2017
WITH
WRIT PETITION NO.3293 OF 2017
WITH
WRIT PETITION NO.3294 OF 2017
WITH
WRIT PETITION NO.3295 OF 2017
WITH
WRIT PETITION NO.3296 OF 2017
WITH
WRIT PETITION NO.3297 OF 2017

PADMA BHAUSAHEB JADHAV,
KAMAL BABAN KADAM,
CHANDU TULSHIRAM KHAMKAR,
AMIL CHIMAJI SHINDE,
SUMAN SAHEBRAO MADANE AND
RUPALI VILAS HOLKAR.

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Nitin V. Gaware h/f Shri Deshpande
Shantanu A..

AGP for Respondents 1 to 3 : Shri S.R.Yadav and Shri B.A.Shinde.

...

9 WRIT PETITION NO. 3598 OF 2017
WITH
WRIT PETITION NO.3599 OF 2017
WITH
WRIT PETITION NO.3600 OF 2017

AVINASH BHAGWAT BACHKAR,
ASHABAI DATTATRAYA KHULE AND
MUKTABAI DATTATRAYA SHELKE.

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Nitin V. Gaware h/f Shri Deshpande

Shantanu A..
AGP for Respondents 1 to 2 : Shri S.R.Yadav and Shri B.A.Shinde.
Advocate for Respondent 3 : Shri U.B. Deshmukh.

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10 WRIT PETITION NO. 4381 OF 2017
WITH WP/4382/2017 WITH WP/4383/2017 WITH WP/4384/2017 WITH
WP/4385/2017

KANIFNATH BHANUDAS BAVANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Tarde Vivek V
AGP for Respondents 1 to 4 : Shri S.R.Yadav.

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11 WRIT PETITION NO. 4468 OF 2017

SAKHARBAI AJINATH WAGHMARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Vivek V. Tarde h/f Shri More Abhijit S.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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12 WRIT PETITION NO. 4471 OF 2017

SUVARNA BHAUSAHEB SHINDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Vivek V. Tarde h/f Shri More Abhijit S.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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13 WRIT PETITION NO. 4473 OF 2017

AJIT POPAT BHAIK AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Vivek V. Tarde h/f Shri More Abhijit S.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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14 WRIT PETITION NO. 4474 OF 2017

ROHINI BALASAHEB LAWANDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Vivek V. Tarde h/f Shri More Abhijit S.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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15 WRIT PETITION NO. 4708 OF 2017

YOGESH SURESH HONDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Kotkar Sachin S.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

...

16 WRIT PETITION NO. 5161 OF 2017

ARJUN LAHANU GHORPADE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioner : Shri Tarde Vivek V.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

...

17 WRIT PETITION NO. 5162 OF 2017

JAYSHREE ARUN GONDAL @ JAYSHREE BHIMAJI DEVKAR AND
OTHERS
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Tarde Vivek V
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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18 WRIT PETITION NO. 7773 OF 2017

ANURADHA ASHOK SONAWANE @ ANURADHA RAKHMAJI GARJE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Tarde Vivek V
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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19 WRIT PETITION NO. 7774 OF 2017

MANISHA PANDURANG SUPEKAR @ MANISHA VISHNU SHINDE
ANDOTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Tarde Vivek V
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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20 WRIT PETITION NO. 7829 OF 2017

SUNIL NANA KARPE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Vivek V. Tarde h/f Shri More Abhijit S.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

...

21 WRIT PETITION NO. 8201 OF 2017

ASHOK GOKUL KEDARI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioner : Shri Vivek V. Tarde h/f Shri Autade Vijay R.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

...

22 WRIT PETITION NO. 8202 OF 2017

MANDA SITARAM SARODE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioner : Shri Vivek V. Tarde h/f Shri Autade Vijay R.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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23 WRIT PETITION NO. 8965 OF 2017

DADA KHANDU SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Vivek V. Tarde h/f Shri More Abhijit S.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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24 WRIT PETITION NO. 8966 OF 2017

VAISHALI SUBHASH KADAM AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Vivek V. Tarde h/f Shri More Abhijit S.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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25 WRIT PETITION NO. 8967 OF 2017

KHANDU BHAUSAHEB BANKAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Vivek V. Tarde h/f Shri More Abhijit S.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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26 WRIT PETITION NO. 8968 OF 2017

LATABAI RANGNATH CHAVAN

VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for the Petitioners : Shri Vivek V. Tarde h/f Shri More Abhijit S.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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28 WRIT PETITION NO. 12861 OF 2017
WITH WP/12862/2017 WITH WP/12863/2017 WITH WP/12998/2017
WITH WP/13024/2017 WITH WP/13025/2017

SANJAY ANKUSH GOPALGHARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for the Petitioners : Shri Vivek V. Tarde h/f Shri More Abhijit S.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

...
29 WRIT PETITION NO. 13653 OF 2017

PRAVIN CHANDRAKANT DIWATE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for the Petitioners : Shri Vivek V. Tarde h/f Shri More Abhijit S.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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30 WRIT PETITION NO. 13664 OF 2017

SAVITA SANTOSH UBALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for the Petitioners : Shri Vivek V. Tarde h/f Shri More Abhijit S.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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31 WRIT PETITION NO. 13968 OF 2017

VIJAYA SUNILKUMAR TOPLE AND ANOTHER
VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Vivek V. Tarde h/f Shri More Abhijit S.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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32 WRIT PETITION NO. 13977 OF 2017

DIPALI PANDURANG GARJE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Vivek V. Tarde h/f Shri More Abhijit S.
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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33 WRIT PETITION NO. 14285 OF 2017

SUNANADA SADASHIV DAHATONDE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioner : Shri Patil Vikramsinh P
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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34 WRIT PETITION NO. 14286 OF 2017

KALPANA SOPAN SHINDE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioner : Shri Patil Vikramsinh P
AGP for the Respondents/ State : Shri B.A.Shinde and Shri S.R.Yadav.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 21st July, 2018

Per Court:

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

2 In these petitions, the 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 6 months from the date of election.

3 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 Maharashtra Municipal Councils,
Nagar Panchayats and Industrial Townships Act, 1965 is mandatory and
any candidate submitting his validity certificate after 6 months, would
incur disqualification automatically after the period of 6 months from the
date of declaration of his election is over.

4 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) and has stayed the
judgment. Protection has been granted to such disqualified candidates for
having failed to submit their validity certificates within 6 months.

5 In this group of petitions, it is not disputed that the
petitioners are declared elected as members of the respective Gram
Panchayats. Their applications to the Scrutiny Committee for validation of
their caste/ tribe certificates were submitted and the said claims were

pending at the time of filing the nomination papers. It is also undisputed that in some cases, the claims are still pending and in some cases, the validity certificates have been granted and have now been submitted by the respective Petitioners, though after the period of six months. The respective District Collectors, however, have disqualified the petitioners by the impugned orders. A categorical statement has been made by each of these Petitioners across the Bar that none of them have suffered a rejection of their validity claims. Based on such statements, this order is passed.

6 The learned Advocates for the respective petitioners have cited two orders passed by the learned Division Bench of this Court on 23.04.2018 in Writ Petition No.5402/2017 and connected matters and on 20.06.2018 in Writ Petition 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 petitioners. The said petitions are disposed of.

7 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 petitioners herein by the impugned orders shall stand automatically sustained. If the Hon'ble Apex Court takes a different view and by virtue of the said view, only if the petitioners are protected, then the impugned orders of disqualification would automatically stand set aside and no further action would be required to be initiated against these petitioners.

8 With the above observations, all these Writ Petitions are disposed of. The protection granted by the Hon'ble Apex Court in the bunch of cases before it, would protect the petitioners 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.

9 At this stage, the learned Advocates for the Petitioners in the Writ Petitions, in which there is office objection regarding deficit court fees, make a statement that the deficit court fees would be deposited within two weeks.

10 The statement is accepted. The deficit court fees in the concerned Writ Petitions shall be deposited on or before 02.08.2018, failing which, this order shall stand recalled in those writ petitions and then such Writ Petitions shall stand dismissed in default on 03.08.2018 without reference to the Court.