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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4594 OF 2017

Chhaya w/o Rajendra Darade @
 Chhaya Vijaya d/o Pandharinath Jaware & Ors. PETITIONERS

VERSUS

The State of Maharashtra and Others RESPONDENTS

.....
 Mr. Umakant U. Wagh, Advocate for the petitioners
 Mr. S. N. Morampalle, AGP for respondent - State
 Mr. Arvind G. Ambetkar, Advocate for intervenor

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 4th SEPTEMBER, 2018

ORDER :

1. Petitioners purport to question legality and validity of orders dated 23rd December, 2016 passed by Collector, Ahmednagar disqualifying the petitioners from membership of village panchayat for non submission of their caste / tribe validity certificates within prescribed period under section 10-1A of the Maharashtra Village Panchayat Act. There is no dispute on factual position that since the petitioners had not furnished caste / tribe validity certificates issued by scrutiny committee within prescribed period, in view of provisions of section 10-1A of the Maharashtra Village Panchayat Act, the Collector had passed orders of disqualification.

2. Petitioners have challenged said orders in present writ petition. This court under its order dated 5th April, 2017, while it had been informed that operation of Full Bench judgment of this court in the case of *“Anand H. Ulhalkar V/s Chief Election Officer”* reported in 2017 (1) Mh.L.J. 431 had been stayed by the Supreme Court and further that in quite a few petitions, wherein disqualification had been challenged for failure to submit caste / tribe validity certificates within prescribed period, had been stayed under interim orders by this Court, had granted interim relief staying operation of impugned orders.

3. Learned counsel submit that special leave petitions filed in the cases of *“Shankar s/o Raghunath Devre (Patil) V/s State of Maharashtra and Others”* and *“Anand H. Ulahalkar V/s Chief Election Officer”* stand decided by the Supreme Court under its decision dated 23rd August, 2018 ruling that the judgment by full bench of Bombay High Court regarding submission of caste / tribe validity certificate under the municipal laws within prescribed period is mandatory legislative prescription.

4. Mr. Ambetkar, learned advocate appearing on behalf of intervenor submits that the Supreme Court in the case of *“Shankar Raghunath Devre (Patil) V/s State of Maharashtra and Others”*

rendered on 23rd August, 2018 dealing with similar provision, whereunder the Supreme Court has approved the view taken by the full bench of Bombay High Court confirming decision in the case of “Anand H. Ulahalkar” (*supra*) has adverted to that three questions had been referred for opinion of Full Bench of Bombay High Court, reading, thus -

“ i. *Whether the time limit prescribed u/s 9A of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, for submission of caste validity certificate by elected councillor is mandatory in nature ?*

ii. *Whether the failure on the part of person elected as Councillor to produce the caste validity certificate within the period of six months from the date on which he was declared elected, irrespective of facts and circumstances and eventuality beyond the control of such person to produce validity certificate would automatically result into termination of his election with retrospective effect ?*

iii. *Whether the validation of caste claim of elected councillor by the scrutiny committee beyond the prescribed period would automatically result into termination of such councillor with retrospective operation ? ”*

5. Thereafter, the Supreme Court has endorsed the view taken by the Full bench of Bombay High court in the case of “Anand H. Ulahalkar” (*supra*) observing thus -

“ 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 provision to be directory. In fact, the High Court has supported its decision by weighty reason to hold that reading the provisions to be directory would virtually amount to rendering the same to be negatory. ”

6. Having regard to aforesaid, in view of the Full Bench judgment of this Court and the decision of the Supreme Court in the case of *Shankar Raghunath Devre (Patil) (supra)*, the writ petition ceases to carry any substance.

7. Writ petition, as such, is rejected. Interim relief stands vacated.

Dinesh
Ramrao
Pawar

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signed by
Dinesh
Ramrao
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[SUNIL P. DESHMUKH, J.]