

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

WRIT PETITION NO. 8696 OF 2017

SMT.JYOTI BHAGAWAN PAWAR @ JYOTI GULAB MAHALE.

-VERSUS-

THE STATE OF MAHARASHTRA AND OTHERS.

WITH

CIVIL APPLICATION NO.12228 OF 2017

IN

WRIT PETITION NO.8696 OF 2017

GANESH DHANSING SURYAWANSHI

-VERSUS-

THE STATE OF MAHARASHTRA AND OTHERS.

WITH

WRIT PETITION NO.5869 OF 2017

SATISH HARIDAS TATHE.

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS.

WITH

WRIT PETITION NO.8689 OF 2017

SMT.ANJANABAI MANIKRAO SONAWANE

-VERSUS-

THE STATE OF MAHARASHTRA AND OTHERS.

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Advocate for the Petitioners : Shri Pahilwan Gautam J.

AGP for the Respondents/ State : Shri S.R.Yadav.

Advocate for Respondent 4 : Shri B.B.Yenge.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 09th August, 2018

Per Court:

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

2 It is categorically pointed out that the Petitioners have received the validity certificates.

3 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.

4 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 not submitting his validity certificate within 6 months, would incur disqualification automatically after the period of 6 months, from the date of the declaration of his election, is over.

5 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.

6 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 their nomination papers. It is also undisputed that 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.

7 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.

8 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.

9 With the above observations, all these Writ Petitions are disposed of. The protection granted by the Hon'ble Apex Court in the group 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.

10 The pending Civil Application does not survive and stands disposed of.

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(RAVINDRA V. GHUGE, J.)