

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

WRIT PETITION NO. 6601 OF 2017
DATTU DHONDIBA VALVHEKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
WRIT PETITION NO.6593 OF 2017
PANDURANG VILAS MARKAD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS.

WITH
WRIT PETITION NO.6615 OF 2017
CHAGAN KESHAV MUGUTMAL.
-VERSUS-
THE STATE OF MAHARASHTRA AND OTHERS.

WITH
WRIT PETITION NO.6773 OF 2017
MINAKSHI BHAUSAHEB KALKUMBE AND ANOTHER.
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS.

WITH
WRIT PETITION NO.8964 OF 2017
UTTAM SHANKAR HANDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS.
(This petition was not on the Board. Mentioned.)

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Advocate for the Petitioners in all petitions except WP 8964/2017 : Shri
Jaju Nikhil S.

Advocate for the Petitioners in WP 8964/2017 : Shri K.N.Shermale.

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

Advocate for the Respondent/ Election Commission : Shri S.T. Shelke.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 07th August, 2018

Per Court:

1 It is categorically pointed out that the Petitioners, in Writ
Petition Nos.6601/2017, 6593/2017, 6615/2017 and 8964/2017, have
received validity certificates. In Writ Petition No.6773/2017, Petitioner
No.1 has received the validity certificate and Petitioner No.2 is disqualified
under the orders of this Court. As such, Writ Petition No.6773/2017 has
become infructuous to the extent of Petitioner No.2 therein.

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

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 the filing of their 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.

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. The Petitioner No.2, namely, Sangita Ambadas Khandagale in Writ Petition No.6773/2017 is refused any relief and the said petition to the extent of Petitioner No.2 stands rejected.