

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

CIVIL APPLICATION NO. 11157 OF 2018

IN

WRIT PETITION NO. 2990 OF 2017

Pravin Ishwar Gore Vs. Zumberbai Piraji Gore & Ors.

WITH

CIVIL APPLICATION NO. 11158 OF 2018

IN

WRIT PETITION NO. 2988 OF 2017

Pravin Ishwar Gore Vs. Prajakta Vithal Bhambare and Ors.

WITH

CIVIL APPLICATION NO. 11159 OF 2018

IN

WRIT PETITION NO. 2989 OF 2017

Pravin Ishwar Gore Vs. Lilabai Sakharam Lokhande & Ors.

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Advocate for Applicants : Mr. A.S. More

AGP for Respondent/State : Mr. S.Y. Mahajan

Advocate for respondent No.1: Mr. M.P.Shinde, holding for Mr. N.V. Gaware

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

DATE: 7th SEPTEMBER, 2018

PER COURT

1. Heard Mr. Abhijit More, the learned Counsel for the applicant. Mr. More made twofold prayer. In the first prayer (B), the applicant prays permission of this Court to intervene in the petition as party-respondent. The submission is, the applicant is necessary party in the petition in view of the fact that the applicant was the first complainant along with the other complainants, who raised

dispute before the Collector, Ahmednagar calling the election of the respondent in question on the ground of non-availability of the caste validity certificate within the prescribed period. The learned Counsel then submitted that, petitioners have prayed for interim order and the learned Division Bench of this Court, in view of the fact that the Full Bench judgment of this Court in case of **Anant Ulhalkar Vs. Chief Election Commission**, reported in **[2017 (1) Mh.L.J. Page 431]** was subjected to challenge before the Hon'ble the Apex Court and the Apex Court granted stay by order dated 13th February, 2017. The Division Bench of this Court granted ad-interim stay to the order impugned in the Writ Petition.

2. The learned Counsel Mr. More submits that, the Special Leave Petition is decided by the Hon'ble the Apex Court. A copy of the order is also placed on record at Exhibit-'B'. The Counsel for the applicant invited our attention to the observations of the Hon'ble the Apex Court, as follows :-

“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 provisions 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.

3. The learned Counsel submits that, the Deputy Collector, Revenue, by communication dated 30.08.2018, called the meeting to fill up the post of Sarpanch and the meeting is scheduled on 11.09.2018. The copy of the communication is also placed on record and marked as 'X' for identification. The learned Counsel then submits that by taking benefit of interim order passed by this Court, the petitioners may attend the meeting and would cast their vote leading to nullify the effect of the order of the Hon'ble the Apex Court. Thus, the learned counsel vehemently prays for vacation of the interim order passed by this Court dated 3rd March, 2017.

4. Learned Counsel Mr. Shinde holding for Mr. Gaware prays for time on the ground that Mr. Gaware is not available in this Court and he has filed leave note. Normally, such prayer would not have been refused by us, but for the

peculiar facts and apprehension expressed by the applicant that the petitioners, taking benefit of interim order passed by this Court, may cast vote in the meeting and same would nullify the effect of the Hon'ble the Apex Court order. In these peculiar facts and circumstances, we allow the applications in terms of prayer clause (B) and (C). The learned Assistant Government Pleader appearing for the State authorities- respondent Nos.2, 3 and 4 to communicate the order of this Court immediately to the Collector, Ahmednagar and Deputy Collector (Revenue), Ahmednagar.

(MANISH PITALE, J.) (PRASANNA B. VARALE, J.)

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