

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11610 OF 2017
(Sakharbai Namdeo Gaikwad Vs. The State of Maharashtra and
others)

Mr.R.R.Karpe, Advocate for the petitioner.
Mr.S.R.Yadav, AGP for respondent Nos. 1 to 3, 5.
Mr.S.T.Shelke, Advocate for respondent No.6.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 23/07/2018

PER COURT :

1. I have heard the learned Advocates for the respective parties.
2. In this petition, 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 her 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 petition, it is not disputed that the petitioner is declared elected as member of the respective Gram Panchayats. Her application to the Scrutiny Committee for validation of her caste / tribe certificate was submitted and the said claim was pending at the time of filing the nomination papers. A categorical statement has been made by this petitioner across the bar that she has not suffered a rejection of her validity claim. Based on such a statement, this order is passed.

6. The learned Advocate for the petitioner has 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 petitioner herein, by the impugned order, shall stand automatically sustained. If the Hon'ble Apex Court takes a different view and by virtue of the said view, only if the petitioner is protected, then the impugned order of disqualification would automatically stand set aside and no further action would be required to be initiated against this petitioner.

8. With the above observations, this writ petition is disposed of. The protection granted by the Hon'ble Apex Court in the bunch of cases before it, would protect the petitioner 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. Learned Advocate for the petitioner shall deposit the deficit court fees, if any, forthwith.

(Ravindra V.Ghuge, J.)