

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12666 OF 2017
(Sushila Yeshwant Sonawane @ Sushilabai Ishram Bhil and another
Vs. The State of Maharashtra and others)

Mr.A.S.Kulkarni h/f Mr.D.P.Palodkar, Advocate for the petitioners.
Mr.Yogesh H.Jadhav, Advocate for respondent No.4.
Mr.B.A.Shinde, AGP for respondent Nos. 1 to 3 and 6.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 16/07/2018

PER COURT :

1. I have heard the learned Advocates for the respective sides.
2. 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. 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 the Municipal Councils Act 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.

3. 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). Protection has been granted to such disqualified candidates for having failed to submit their validity certificates within 6 months.

4. The petitioners are declared elected as a member of the Gram Panchayat on 18/04/2016. Their applications to the Scrutiny Committee for validation of their tribe certificates were submitted and they were pending. On 29/06/2016, petitioner No.1 acquired tribe validity certificate and petitioner No.2 acquired the tribe validity certificate on 20/10/2011 which were tendered to the Authorities belatedly. The District Collector, however, has disqualified the petitioners by order dated 12/06/2017.

5. Learned Advocate for the petitioners has cited two orders passed by the learned Division Bench of this Court on 23/04/2018 in WP No.5402/2017 alongwith other matters and on 20/06/2018 in WP 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 petitioner. The petitions are disposed of.

6. 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 by order dated 12/06/2017 shall stand automatically sustained. If the Hon'ble Apex Court takes a different view and by virtue of the said view, if the petitioner is protected, the impugned order of disqualification would automatically stands set aside and no further action would be required to be initiated against these petitioners.

7. With the above observations, this petition is disposed of. The protection granted by the Hon'ble Apex Court in the bunch 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.

(Ravindra V.Ghuge, J.)