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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.656 OF 2018
IN
WRIT PETITION NO.10198 OF 2017

Suvarna V. Vaze & Anr. ...Applicants

IN THE MATTER BETWEEN :

Ramesh R. Patil ...Petitioner

V/s.

The State of Maharashtra & Ors. ...Respondents

WITH
CIVIL APPLICATION NO.653 OF 2018
IN
WRIT PETITION NO.10195 OF 2017

Suvarna V. Vaze & Anr. ...Applicants

IN THE MATTER BETWEEN :

Indira S. Patil ...Petitioner

V/s.

The State of Maharashtra & Ors. ...Respondents

WITH
CIVIL APPLICATION NO.654 OF 2018
IN
WRIT PETITION NO.10196 OF 2017

Suvarna V. Vaze & Anr. ...Applicants

IN THE MATTER BETWEEN :

Shevanti R. Gadag ...Petitioner

V/s.

The State of Maharashtra & Ors. ...Respondents

WITH

CIVIL APPLICATION NO.655 OF 2018
IN
WRIT PETITION NO.10197 OF 2017

Suvarna V. Vaze & Anr. ...Applicants

IN THE MATTER BETWEEN :

Latabai S. Kadav ...Petitioner

V/s.

The State of Maharashtra & Ors. ...Respondents

WITH
CIVIL APPLICATION NO.657 OF 2018
IN
WRIT PETITION NO.10199 OF 2017

Suvarna V. Vaze & Anr. ...Applicants

IN THE MATTER BETWEEN :

Sunita Y. Patil ...Petitioner

V/s.

The State of Maharashtra & Ors. ...Respondents

WITH
CIVIL APPLICATION NO.658 OF 2018
IN
WRIT PETITION NO.10200 OF 2017

Suvarna V. Vaze & Anr. ...Applicants

IN THE MATTER BETWEEN :

Pravin B. Bhoir ...Petitioner

V/s.

The State of Maharashtra & Ors. ...Respondents

WITH
CIVIL APPLICATION NO.659 OF 2018
IN
WRIT PETITION NO.10201 OF 2017

Suvarna V. Vaze & Anr. ...Applicants

IN THE MATTER BETWEEN :

Ragho R. Mukane	...Petitioner
V/s.	
The State of Maharashtra & Ors.	...Respondents

WITH
CIVIL APPLICATION NO.660 OF 2018
IN
WRIT PETITION NO.10202 OF 2017

Suvarna V. Vaze & Anr.	...Applicants
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IN THE MATTER BETWEEN :

Chandrabai S. Patil	...Petitioner
V/s.	
The State of Maharashtra & Ors.	...Respondents

WITH
CIVIL APPLICATION NO.661 OF 2018
IN
WRIT PETITION NO.10203 OF 2017

Suvarna V. Vaze & Anr.	...Applicants
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IN THE MATTER BETWEEN :

Dhanaji R. Mhatre	...Petitioner
V/s.	
The State of Maharashtra & Ors.	...Respondents

WITH
CIVIL APPLICATION NO.662 OF 2018
IN
WRIT PETITION NO.10209 OF 2017

Suvarna V. Vaze & Anr.	...Applicants
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IN THE MATTER BETWEEN :

Somnath G. Patil	...Petitioner
V/s.	

The State of Maharashtra & Ors.

...Respondents

WITH
CIVIL APPLICATION NO.663 OF 2018
IN
WRIT PETITION NO.10210 OF 2017

Suvarna V. Vaze & Anr.

...Applicants

IN THE MATTER BETWEEN :

Jitendra J. Patil

...Petitioner

V/s.

The State of Maharashtra & Ors.

...Respondents

Mr.Ajit Pitale for the Applicants in all the Civil Applications.

Mr.S.H. Kankal, A.G.P. for the State – Respondent Nos.1 to 3.

Mr.Sanjay Patil for the Original Petitioners.

CORAM : R.D. DHANUKA, J.

DATE : 24TH JULY, 2018.

P.C. :-

1. By all these civil applications filed by the applicants (original respondent nos.4 and 5), the applicants have applied for recall of the order dated 19th September, 2017 passed by this Court thereby admitting the writ petitions filed by the original petitioners and granting interim reliefs in terms of prayer clause (c).

2. All the civil applications are filed on the ground that though the caveat was filed by the applicants, the copies of the papers and proceedings and the notices were not served upon the applicants and the original petitioners obtained an *ex-parte* order of admission and

interim relief against the applicants.

3. The applicants to these civil applications had filed a dispute before the learned Collector *inter-alia* praying for disqualification of the original petitioners on the ground that the original petitioners had not complied with the mandatory requirement under section 14(j)(5) of the Maharashtra Village Panchayat Act, 1958 and thus were disqualified to be members of the village Grampanchayat.

4. Learned counsel appearing for the original petitioners on the other hand invited my attention to the affidavit in reply filed by the original petitioners and would submit that the notice of mentioning the matter before this Court on 19th September, 2017 was issued by the original petitioners through their advocate's letter dated 15th September, 2017. The notices were attempted to be served on the applicants to the civil applications on 18th September, 2017. The endorsement was made by the Postal Authority "intimation". Since the applicants did not collect the papers from the concerned Postal Authorities, the packets were returned with the said endorsement "intimation" to the original petitioners by the Postal Authorities on 27th September, 2017. It is submitted that the original petitioners thus did not make any incorrect statement before this Court that the applicants were served by the original petitioners through their advocate.

5. Though there is an endorsement of the Postal Authorities that the intimation was posted on 18th September, 2017, the applicants did not collect the said notice and the papers and proceedings from the Postal Authorities. Be that as it may, I have heard the learned counsel for the applicants to the civil applications as well as the original petitioners to decide whether the order dated 19th September, 2017 passed by this Court is required to be recalled or not.

6. Learned counsel for the applicants submits that the nomination forms were filed by the petitioners on 16th September, 2017 and the Grampanchayat had held the meetings on 2nd October, 2015 and 10th October, 2015. The elections were held on 3rd November, 2015. It is submitted that the petitioners thus could have obtained a certificate from the Grampanchayat to the effect that the petitioners had constructed the toilet and were using the toilet in terms of the section 14(j)(5) of the Maharashtra Village Panchayat Act, 1958. He submits that the Appellate Authority had rightly disqualified the petitioners under the said provisions in view of the petitioners not having complied with the provisions of section 14(j)(5) of the Maharashtra Village Panchayat Act, 1958.

7. The next submission of the learned counsel for the applicants is that this Court while granting an order on 19th

September, 2017 had considered the order passed by this Court on 2nd March, 2017 in Writ Petition No.2503 of 2017 with other connected matters. It is submitted that in that writ petition, admittedly no Grampanchayat meeting was held and thus this Court admitted the said writ petition and had granted interim relief, whereas in this case, two meetings of the Grampanchayat were held on 2nd October, 2015 and 10th October, 2015 respectively and thus no reliance on the order dated 2nd March, 2017 in Writ Petition No.2503 of 2017 could be placed by this Court in order dated 19th September, 2017.

8. Learned counsel appearing for the original petitioners on the other hand would submit that the petitioners had relied upon the certificate issued by the Group Grampanchayat certifying that the petitioners had constructed the toilet and were using the toilet. He submits that on 2nd October, 2015, the meeting held by the Grampanchayat was adjourned to 10th October, 2015. In none of those two meetings there was an agenda for passing any resolution for issuance of a certificate under section 14(j)(5) of the Maharashtra Village Panchayat Act, 1958 and thus the question of producing a copy of the resolution by the original petitioners at the stage of filing of the nomination forms did not arise. It is submitted that this Court had thus rightly placed reliance on the order dated 2nd March, 2017 passed in Writ Petition No.2503 of 2017.

9. The next submission of the learned counsel for the original petitioners is that when these original petitioners had filed the nomination forms, no objection was raised either by the Grampanchayat or by the applicants alleging that the nomination forms were in violation of section 14(j)(5) of the Maharashtra Village Panchayat Act, 1958.

10. A perusal of the record indicates that the original petitioners have relied upon a certificate issued by the village panchayat certifying that the original petitioners had constructed the toilet and were using the said toilet.

11. It is not in dispute that when the nomination forms were filed on 16th October, 2015, no objection was raised by the Grampanchayat by the petitioners that the resolution of the Grampanchayat was not annexed to the nomination forms in compliance with section 14(j)(5) of the Maharashtra Village Panchayat Act, 1958. Though a meeting of the Grampanchayat was held on 2nd October, 2015, the same was adjourned to 10th October, 2015. A perusal of resolution passed by the Grampanchayat on 2nd October, 2015 and on 10th October, 2015 indicates that there was no agenda for passing any resolution for issuance of a certificate under section 14(j)(5) of the Maharashtra Village Panchayat Act, 1958. In these circumstances the original petitioners could not obtain any resolution

from the Grampanchayat.

12. In my view this Court was right in placing reliance on the order dated 2nd March, 2017 passed in Writ Petition No.2503 of 2017 and has rightly admitted these petitions and has granted interim relief in terms of prayer clause (c). I do not find any reason to recall the said order dated 19th September, 2017 passed by this Court.

13. Each of these civil applications are thus without any merit and are accordingly dismissed. There shall be no order as to costs.

14. Hearing of the writ petitions is expedited.

(R.D. DHANUKA, J.)