

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908. WRIT PETITION NO.123 of 2019

Ashabai W/o Jalindar Khadke
age 39 years occupation household & member of
Tandulwadi Grampanchayat, R/o Tandulwadi
Taluka Rahuri District Ahmednagar

...Petitioner

VERSUS

1. The State of Maharashtra
through its Secretary,
Rural Department, Mantralaya, Mumbai - 32
2. The Additional Commissioner,
Nashik Division, Nashik
3. The Additional Collector,
Ahmednagar
4. The Tahsildar,
Rahuri Taluka Rahuri District Ahmednagar
5. The Grampanchayat,
Tandulwadi Taluka Rahuri District Ahmednagar
through its Village Development Officer
Bharat Rajaram Jadhav, age 38 years '
occupation service as a Village Development Officer
R/o Tandulwadi Taluka Rahuri District Ahmednagar.

...Respondents

Mr. S.N. Gaikwad, Advocate for petitioner

Mr. G.O. Wattamwar, Asstt.Govt.Pleader for respondents No.1to 4

CORAM : SUNIL P. DESHMUKH, J.

DATE : 25th January, 2019

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith. Heard learned counsel for appearing parties finally with consent.

2. There is no dispute that in the general elections of village *panchayat*, Tandulwadi Taluka Rahuri District Ahmednagar, petitioner had been elected as a member of *Gram Panchayat* on 4th August, 2015. Petitioner had been further elected as *Up-Sarpanch* on 30th August, 2015 and she continued as such till 27th February, 2018. She has been a member of the *Gram Panchayat* again since March, 2018.

3. In the proceedings for disqualification of members, who had not submitted their caste/tribe validity certificate within prescribed period, petitioner had been declared to have been disqualified and appeal therefrom had also been dismissed.

4. The factual position, however, appears that petitioner had submitted her caste/tribe validity certificate along with the nomination form. However, inadvertent error has been crept in tick marking column which was meant for filing of undertaking who had not submitted caste/tribe validity certificate along with the nomination form.

5. Affidavit-in-reply filed by respondent No.4 refers to as under :

“ 2. The deponent say and submit that, the deponent is Respondent No.4. The election of Grampanchayat, Tandulwadi held in the year 2015 in view of the programme published. The petitioner has filed her nomination form along with necessary documents filed on 16.07.2015 contested election and elected as member of village panchayat. As per the guideline issued by the State Government dated 18.02.2016. The District Collector called dispute applications for disqualification on the ground that who were contested and elected in the election for the Grampanchayat on reserve posts and who were failed to furnish Caste Validity Certificate within prescribed time under the Law. As per this guidelines and as per the directions of District Collector the dispute application were filed before the Additional Collector, Ahmednagar by the deponent at the time of filing of dispute applications the deponent inadvertently and only going through the form of nomination form in column no.11 of the nomination form, it has been inadvertently mentioned that “(Yes)” that column is for the purpose of undertaking who were not submitted caste validity certificate alongwith the nomination form. On going through the above column the deponent has filed dispute before the Additional Collector, Ahmednagar for disqualification on the ground of non submission of validity certificate within time.

3.

4. The deponent say and submit that, at the outset I tender my unconditional apology. The deponent has

without going to be entire documents with nomination form of the petitioner. Inadvertently deponent has filed dispute application, in fact along with nomination form the petitioner has already submitted, the caste validity certificate, therefore the dispute application which was not required to be filed but due to the mistake committed in the nomination form which was filed by the petitioner. And the petitioner has not contested dispute application before the Additional Collector and did not point out the caste validity certificate already annexed with the nomination form; therefore, the Ld. Additional Collector has disqualified the petitioner, from the membership of Village Panchayat, Tandulwadi, on the ground of non submission of caste validity certificate within prescribed time under the law. ”

6. Having regard to contents of the affidavit-in-reply, the petition deserves to be allowed and the writ petition, therefore, is allowed in terms of prayer clause “B”.
7. Rule is made absolute accordingly.
8. The writ petition is disposed of.

**(SUNIL P. DESHMUKH)
JUDGE.**