

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

3 WRIT PETITION NO.817 OF 2019

RAMKRISHNA HANUMANT PATIL
VERSUS
THE STATE OF MAHARASHTRA AND ORS

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Advocate for Petitioner : Mr. V.B. Anjanwatikar h/f Mr. Paresh
B. Patil & Mr. S.A. Nandure

AGP for Respondent/State : Mr. S.K. Tambe

Advocate for Respondent No.4 : Mr. Atmaram J Patil

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**CORAM : P.R. BORA, J.
DATED : 14th March, 2019.**

PER COURT:-

. Leave to amend the petition. The learned counsel submits that the petitioner intends to amend the petition so as to incorporate subsequent fact of issuance of Ordinance dated 14.02.2019.

2. Leave granted. The amendment be carried out forthwith.

3. Heard Shri Anjanwatikar, the learned counsel appearing for the petitioner and the learned AGP Shri Tambe, the learned counsel appearing for respondent nos.1 to 3 and Shri A.J. Patil, the learned counsel appearing for respondent no.4.

4. The present petitioner was elected as Member of

Village Panchayat Dheku (Khurd), Taluka Amalner from ward no.3 of the said grampanchayat from the general constituency. The petitioner claims to be belonging to other backward class however, he contested the election from general seat and got elected from the said constituency. The elections were held on 04.06.2015.

5. In June 2017, the post of Sarpanch of Village Panchayat Dheku became vacant since, Shri Jijabrao Bhimrao Patil, who was working as Sarpanch at the relevant time resigned from the said post. The post of Sarpanch was reserved for the candidate belonging to other backward classes. Since, the petitioner belongs to other backward class, he filled his nomination for the said post and at the time of submitting his nomination also submitted his caste certificate. He was elected as Sarpanch unopposed on 21.07.2017. As per then prevailing statutory provisions, the petitioner was to submit his caste validity certificate within the period of six months from the date of getting elected on the post of Sarpanch.

6. On 06.09.2018, respondent no.4 raised the dispute before the Collector Jalgaon alleging that the petitioner did not submit the caste validity certificate within

the stipulated period of six months and therefore prayed for his disqualification. In the dispute so raised by respondent no.4, the enquiry was carried out by the learned Collector and ultimately vide the impugned order passed on 03.12.2018, the learned Collector Jalgaon has disqualified the present petitioner on the ground that he failed in submitting his caste validity certificate within the stipulated period. Aggrieved by, the petitioner has filed the present petition.

7. The learned counsel appearing for the petitioner submitted that the petitioner received the caste validity certificate on 04.01.2019. It is further contention of the petitioner that on 09.01.2019, he submitted the said caste validity certificate to the Tahsildar Amalner. The learned counsel further submitted that in-spite of submission of the caste validity certificate by the petitioner, he has been disqualified by the Collector Jalgaon. The learned counsel in the circumstances, prayed for setting aside the impugned order.

8. The respondents have submitted the affidavit in reply in the matter. In the reply, the respondents have admitted that the petitioner submitted the caste validity

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certificate on 09.01.2019. It is further contended in the affidavit in reply that since, the petitioner did not submit his caste validity certificate within the time prescribed under Clause-II in the Amendment Ordinance dated 11.10.2018 his request has not been considered. The learned AGP submitted that in the aforesaid circumstances, no interference is required in the impugned order. The learned AGP submitted that admittedly, the petitioner did not submit his caste validity certificate till the dispute was decided by the learned Collector Jalgaon and admittedly till the said date, no caste validity certificate was received to the petitioner. In the circumstances, according to the learned AGP, no interference is liable to be caused in the impugned order.

9. The learned counsel for the petitioner has brought to my notice the Ordinance dated 14.02.2019. The learned counsel submitted that vide the aforesaid ordinance, the time to submit the caste validity certificate has been extended till 14.05.2019. The learned counsel submitted that since, the petitioner has submitted the caste validity certificate on 09.01.2019, the order passed by the Collector needs to be set aside and the matter needs to be remitted to the Collector Jalgaon for deciding it afresh in light of the

Ordinance dated 14.02.2019. In the affidavit in reply, it has not been denied or disputed that the petitioner has submitted the caste validity certificate on 09.01.2019 with the Competent Authority. It is further not disputed that the Caste Scrutiny Committee has issued the caste validity certificate in favour of the petitioner on 04.01.2019. It is brought to my notice by the learned counsel that till date the post of Sarpanch has not been filled up.

10. In the circumstances, it appears to me that the present petition can be disposed of by remitting the matter to the Collector Jalgaon to decide it afresh in light of the Ordinance dated 14.02.2019 by permitting the petitioner to place on record his caste validity certificate. The petitioner shall appear before the learned Collector Jalgaon on 03.05.2019. The Collector Jalgaon shall hear and decide the dispute, as expeditiously as possible preferably on or before 14.05.2019. Till then, the post of Sarpanch Dheku, Taluka Amalner shall not be filled up.

(P.R. BORA, J.)