

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2079 OF 2019

KOKILABAI RANJIT KOLI DEORAJ
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Shri Shinde Balaji S.
AGP for Respondents 1 to 3 : Shri Bhagat N.T.
Advocate for Respondent 5 : Shri Pawar Ajay D.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 11, 2019

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PER COURT :-

1. This Court (Coram : Sunil P. Deshmukh, J.) has passed an order on 7.3.2019, which reads as under:-

“1. Issue notice to respondents, returnable on 8th April, 2019.

2. Learned Assistant Government Pleader waives notice for respondents no.1 to 3.

3. Learned counsel Mr. Shinde for petitioners urges for interim relief stating that petitioner had been elected as Member of Village Panchayat, Savkheda, Taluka Ammalner, District Jalgaon, in election held in the year 2015 from Scheduled Tribes (Woman) category and thereafter she claims to have been elected as Sarpanch of the Village Panchayat. Her caste/tribe validity certificate proceeding is pending before the Caste/Tribe Scrutiny Committee/respondent no.2. However, petitioner has

been declared to have been disqualified by respondent no.3- the Collector, Jalgaon, under impugned order dated 3rd December, 2018 for non-submission of caste/tribe validity certificate within stipulated period. Learned counsel draws attention to Ordinance No. II of 2019 issued by the Government of Maharashtra on 14th February, 2019, particularly, clause (4) thereof, reading, thus,

“ 4. Section 8 of the amendment Act, shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, following sub-section shall be added, namely :—

“(2) Notwithstanding anything contained in sub-section (1), any person who has obtained Caste Certificate or Validity Certificate after the 26th March 2015, but has not filed such certificate within the stipulated period as per provisions of the Maharashtra Village Panchayats Act, shall not be deemed to be disqualified under the provisions of the Maharashtra Village Panchayats Act, if he has already submitted the Validity Certificate to the Competent Authority after expiry of the such stipulated period but before the publication of the Maharashtra Village Panchayats and the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) (Amendment) Ordinance, 2019 in the Official Gazette or if he submits such certificate within a period of three months from the date of such publication of said

Ordinance, 2019 in the Official Gazette :

Provided that, the provisions of this section shall not apply where the State Election Commission has already prior to the date of publication of the Maharashtra Village Panchayats and the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) (Amendment) Ordinance, 2019 in the Official Gazette has held elections to fill the vacancy of such person or declared the programme for holding of such election. ”

4. *He submits that though the caste validity certificate as yet has not been issued, petitioner would be entitled to submit said certificate before expiry of period of three months from the date of such publication of said Ordinance, as referred to under aforesaid provision.*

5. *Having regard to clause (4) of the Ordinance dated 14th February 2019, till returnable date, further consequent action pursuant to impugned order passed by the District Collector, Jalgaon, in Gram Panchayat Dispute No. 100/2018 dated 3rd December, 2018 may not be taken.*

6. *In the meanwhile, it would be expedient if respondent no. 2 proceeds with the pending caste/tribe validity proceedings of the petitioner.*

7. *In addition to service through court process, petitioner shall serve respondents No. 4 and 5 by any legally acceptable*

private mode of service and file affidavit along with tangible proof to that effect within a period of one week before returnable date. In case of failure to serve respondents No.4 and 5 privately and file affidavit as directed before returnable date, ad-interim relief, as has been granted, would cease to operate.”

2. I have considered the strenuous submissions of the learned Advocates for the respective sides and have gone through the Maharashtra Ordinance No. II of 2019, dated 14.2.2019, portion of which is reproduced in the above stated order.

3. The petitioner, therefore, had the opportunity to produce her Tribe Validity Certificate on/or before 14.5.2019. She has still not received such a certificate and her claim for validity is still pending.

4. Considering the law laid down by the learned Full Bench of this Court in the matter of Anant H. Ulahalkar Vs. Chief Election Commissioner and others [2017 (1) Mah. L.J. 437], [Confirmed by Honourable Supreme Court in Shankar Raghunath Devre (Patil) Vs. State of Maharashtra - SLP(C) Nos.29874-29875 of 2016, delivered on 27.6.2018], the mandate of producing the validity certificate has been upheld. The Maharashtra Ordinance No. II of 2019 gave a new lease of life to such litigants upto 14.5.2019.

5. Considering the above, this petition, being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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