

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

913 WRIT PETITION NO.2078 OF 2019

PADMAKAR MANOHARRAO UGILE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Dr. Tawshikar Swapnil D.
AGP for Respondent Nos. 1 to 4: Mr. K.S. Patil

...
CORAM : P.R. BORA, J.
DATED : 13th MARCH, 2019

PER COURT:-

1. Rule. Rule made returnable forthwith.
2. The learned counsel for the petitioner seeks leave to delete the name of Respondent No.5 from the array of the Respondents. Leave granted.
3. The petitioner is aggrieved by order dated 23.01.2019 bearing No.2018/GPN/VP/Udgir/KaVi passed by the Collector, Latur thereby disqualifying the petitioner for the Post of Member/Sarpanch of Village Panchayat, Nalgir, Taluka Udgir, District Latur on account of his failure to submit his Caste Validity Certificate within the prescribed limit of six months.
4. The learned counsel appearing for the petitioner has tendered across the bar the copy of the judgment

passed by this Court (**Coram: Ravindra .V. Ghuge, J.**) in Writ Petition No.3975 of 2018 dated 06.03.2019. The learned counsel submitted that the dispute raised in the said petition is covered by the judgment passed in Writ Petition No.3975 of 2018. Shri K.S. Patil, the learned AGP concedes that the present petition can be disposed of in terms of the order passed in Writ Petition No.3975 of 2018. On perusal of the impugned order and the other material placed on record and the judgment passed by this Court in Writ Petition No.3975 of 2018, there has remained no doubt in my mind that the facts of the present petition and the facts which were involved in Writ Petition No.3975 of 2018 are identical. In the circumstances, the present petition can certainly be allowed in terms of the reasons assigned in Writ Petition No.3975 of 2018. I deem it appropriate to reproduce here-in-below paragraphs no.2 to 4 of the judgment passed by this Court in Writ Petition No.3975 of 2018, which read thus:

*"2. It requires no debate that the issue of disqualification on account of not furnishing of the caste/tribe validity certificate within six months as prescribed under section 10(1)(A) of the Maharashtra Village Panchayat Act has been considered by the learned full bench of this Court in the matter of **Anant H. Ulhalkar versus Chief***

Election Commissioner (2017 (1) Mh.L.J.431).

*It was concluded that the prescribed period of six months for submitting the caste validity certificate is a mandate of law. The matter was taken to the Honourable Apex Court and in the matter of **Shankar S/o Raghunath Devre (Patil) versus State of Maharashtra in Petitions for Special Leave to Appeal (C) Nos.29874-29875/2016**, arising out of the Judgment & Order dated 2.9.2016 in Writ petition No.5686/2016 and 1.10.2016 in R.P.No.201/2016 in W.P. No.5686/2016, the Honourable Apex Court sustained the view taken by the learned full bench.*

3. Pursuant to the above, the State of Maharashtra introduced an ordinance on 11.10.2018, by which the time/period for submitting the Caste Validity Certificate was extended and those persons who were elected in the elections held from 31.3.2016 onwards were permitted to submit their Caste Validity Certificates. Thereafter, by an ordinance No.II/2019 dated 13.2.2019, the State of Maharashtra resolved to grant the benefit of belatedly submitting Caste Validity Certificate to such elections which were held between 26.3.2015 to 31.3.2016 for about 19,000 village Grampanchayat.

4. Considering this provision, this Court at Nagpur Bench has passed an order on 25.2.2019 in the matter of **Priya Rahul Kakade versus The Collector, Akola and others** in Writ Petition No.968/2017".

5. There is no dispute that the petitioner was elected on 12.08.2017 as a Member of the Grampanchayat. He received the Caste Validity Certificate on 28.08.2018. The petitioner has submitted his Caste Validity Certificate with the office of the Returning Officer cum Tahsildar, Udgir on 05.09.2018.

6. Clause 4 of the Government Ordinance No.II of 2019 causes an amendment to section 8 of the Maharashtra Grampanchayat Act (62 of 2018(LXII/2018) by which it stands amended as follows:-

“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) 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."

7. The learned AGP submits, on instructions, that elections to the Grampanchayat from which the petitioner was disqualified, have still not been declared and the seat is yet to be declared as vacant. The learned Advocate for the petitioner submits that, he has submitted his Caste Validity Certificate on 05.09.2018.

8. Considering the above and keeping in view of the order dated 25.2.2019 passed by this Court at Nagpur in Priya Kokate (*supra*), this petition is allowed. The impugned order dated 23.01.2019, is quashed and set aside and the petitioner stands restored to his position as a Member of the Grampanchayat.

(P.R. BORA, J.)