

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

912. WRIT PETITION No. 3091 of 2019

Yuvraj S/o Dhanraj Patil,
age 43 years occupation labour
R/o Bharadi Taluka Jamner District Jalgaon

...Petitioner

VERSUS

1. The State of Maharashtra
through : the Principal Secretary,
Rural Development and Panchayat Raj Department,
Mantralaya, Mumbai - 33
2. The State Election Commission,
Mumbai.
3. The District Collector,
Jalgaon Taluka and District Jalgaon
4. The Tahsildar,
Jamner Taluka Jamner District Jalgaon
5. The Block Development Officer,
Panchayat Samiti, Jamner
Taluka Jamner District Jalgaon
6. Yogesh S/o Dhanraj Patil,
age 34 years occupation agriculture.
7. Sangitabai W/o Ravindra Narwade
age 34 years occupation household
8. Vidyabai W/o Samadhan Patil,
age 44 years occupation household

Nos. 6 to 8 R/o Bharadi Taluka Jamner
District Jalgaon

...Respondents

Mr. Shrikant B. Madde, Advocate for petitioner
Mr. Y.G. Gujarathi, Asstt. Govt. Pleader for respondents no. 1 to 4

CORAM : SUNIL P. DESHMUKH, J.

DATE : 7th March, 2019

ORAL ORDER:

1. Heard learned counsel for petitioner. He submits that while elections of Gram Panchayat, Bharadi Taluka Jamner had been held in August, 2015 respondents no. 6 to 8 were elected but had failed to furnish caste validity certificate within stipulated period of six months and, as such, movement at the instance of petitioner for disqualification of respondents no. 6 to 8 ensued. He submits that the disqualification had been incurred by respondents no. 6 to 8 immediately on expiry of stipulated period. However, order had not been passed. He submits that the proceedings at the instance of petitioner for disqualification of respondents no. 6 to 8 have been rejected by the Collector on 3rd December, 2018 under erroneous impression that respondents no. 6 to 8 have filed their respective validity certificates.

2. The factual position largely, which is not disputed, is that the elections were held in August 2015 and ordinance no. XXI of 2018 has been promulgated by the State Government on 11th October, 2018 increasing stipulated period for submission of validity certificate to 12 months with effect from 31st March, 2016. It appears that respondents no. 6 to 8 have submitted caste validity certificates on 16th July, 2016. According to learned

counsel for petitioner, ordinance dated 11th October 2018 does not cover case of respondents no. 6 to 8 in any way since election had taken place in August 2015.

3. Learned Assistant Government Pleader draws attention to subsequent ordinance promulgated by the State Government on 14th February, 2019 and, particularly, to 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. ”

He submits that case of the respondents is totally covered by said clause.

4. Having regard to said provision under subsequent Ordinance, it appears that there would be no substance in objection as to disqualification having been incurred by concerned respondents.

5. The writ petition, therefore, would be difficult to be entertained and, as such, is rejected.

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

Madkar