

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

914. WRIT PETITION No. 3096 of 2019

Nirmalabai Dilip Munjal,
age 67 years occupation household
R/o Khadak Narala Taluka Gangapur
District Aurangabad

...Petitioner

VERSUS

1. The State of Maharashtra
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai.
 2. The Collector,
Collector Office, Aurangabad District Aurangabad.
 3. The Sub-Divisional Officer,
Sub-Divisional Office, Vaijapur
Taluka Vaijapur Dist. Aurangabad
 4. The Tahsildar/Returning Officer,
Tahsil Office, Gangapur
Taluka Gangapur district Aurangabad. ,
 5. The Gram Sevak,
Village Panchayat, Khadak Narala
Taluka Gangapur District Gangapur (Deleted)
- ...Respondents

Mr. Ajay T. Kanawade, Advocate for petitioner
Mr. S.N. Kendre, Asstt. Govt. Pleader for respondents no. 1 to 4

CORAM : SUNIL P. DESHMUKH, J.

DATE : 7th March, 2019

ORAL JUDGMENT:

1. At the outset, learned counsel for the petitioner states

that respondent no.5 is not concerned party and seeks leave to delete respondent no.5 from array of respondents. Leave granted. Respondent no.5 is deleted from array of respondents at the risk and peril of petitioner.

2. Rule.

3. The learned Assistant Government Pleaders waives notice for respondents no.1 to 4 on Rule.

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

5. Petitioner is elected as a member of *Gram Panchayat* of village Khadaknarala Taluka Gangapur District Aurangabad in 2017 from the category of Scheduled Caste (Women). Petitioner has received caste validity certificate on 22nd October 2018 and she submitted the same immediately with the Tahsildar, Gangapur, on 23rd October, 2018. A show cause notice had been issued to petitioner as to why she should not be disqualified for non submission of caste validity certificate within stipulated period. Thereupon, petitioner had again submitted caste validity certificate with the Tahsil Office, Gangapur, on 14th November, 2018.

6. Learned counsel submits that the petitioner had no notice from the office of the Collector that the decision would be taken about her disqualification and, as such, she could not point out the fact of submission of caste validity certificate in November, 2018. Learned counsel points out ordinance no. XXI of 2018 dated 11th October, 2018 clause (8) of the same; and ordinance dated 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. ”

7. Having regard to aforesaid provisions, it appears that

case of the petitioner is amply covered by the protection thereunder. In view of the same, the writ petition is allowed in terms of prayer clause (C) .

8. Rule is made absolute accordingly.

9. The writ petition is disposed of.

(SUNIL P. DESHMUKH)
JUDGE.

Madkar