

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

913. WRIT PETITION No. 3094 of 2019

Jagannath S/o Gobar Mali,
age 72 years occupation *Sarpanch*
R/o Nagapur Taluka Kannad District Aurangabad
...Petitioner

VERSUS

1. The State of Maharashtra
Through : The District Collector, Aurangabad
Taluka and District Aurangabad.
2. The Sub-Divisional Officer,
Kannad Taluka Kannad Dist. Aurangabad
3. The Tahsildar,
Kannad Taluka Kannad Dist. Aurangabad.
...Respondents

Mr. Ravindra V. Gore, Advocate for petitioner
Mr. G.O. Wattamwar, Asstt. Govt. Pleader for all respondents

CORAM : SUNIL P. DESHMUKH, J.

DATE : 7th March, 2019

ORAL JUDGMENT:

1. Rule.
2. Learned Assistant Government Pleader waives notice
for all respondents on Rule.
3. Rule made returnable forthwith. Heard learned
counsel for appearing parties finally with consent.

4. There is no dispute on the factual position that the petitioner had been elected as *Sarpanch* of Gram Panchayat, Nagapur Taluka Kannad District Aurangabad in general elections held in August, 2015 from Other Backward Class (Maali) category. He, in fact, had submitted caste validity certificate issued by the Scrutiny Committee on 6th February, 2016. According to learned counsel for the petitioner, the same is submitted well within stipulated period.

5. It appears that the aforesaid fact was not taken into account while passing impugned order dated 6th February, 2019. In any case, subsequently, the Government of Maharashtra had issued Ordinance no. XXI dated 11th October, 2018 and pursuant to clause (8) thereof, the period has been extended. Submission of caste validity certificate by the petitioner appears to be before the said date. Even otherwise, protection had been given to said candidate under the Ordinance promulgated by the State Government 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. ”

6. Although the learned Assistant Government Pleader submits that petitioner had not pointed out the aspect about submission of caste validity certificate in February, 2016, learned counsel for the petitioner submits that petitioner had not received any notice about initiation of proceedings at his end. Learned Assistant Government Pleader states that petitioner may submit the certificate with the Tahsildar. Learned counsel for

petitioner points out that the certificate has already been submitted with the Tahsildar, Kannad, on 6th February, 2016. Learned counsel for petitioner, on instructions, states that petitioner would submit copy of the certificate again with the Tahsildar by 30th April, 2019. It is expected that the petitioner would act according to the statement.

7. Having regard to aforesaid position, it emerges that the impugned order is unsustainable. The writ petition, therefore, is allowed in terms of prayer clause (B).

8. Rule is made absolute.

(SUNIL P. DESHMUKH)
JUDGE.

Madkar