

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

921. WRIT PETITION No. 3267 of 2019

Sau. Urmila Vishwanath Barse
alias Urmila D/o Baburao Lokhande
age 41 years occupation agriculture and
Member of Panchayat Samiti, Gangapur
R/o Lasur Station Taluka Gangapur District Aurangabad
...Petitioner

VERSUS

1. The State of Maharashtra
Through : The Office of Rural Development,
Mantralaya, Mumbai – 32
2. The State Election Commission,
Maharashtra State, Mumbai. **(Deleted)**
3. The District Collector,
Aurangabad District Aurangabad
4. The Sub-Divisional Officer,
Sub-Division, Vaijapur
Taluka Vaijapur District Aurangabad
5. The Panchayat Samiti,
Gangapur Taluka Gangapur District Aurangabad
through its Block Development Officer, P.S., Gangapur
(Deleted) ...Respondents

Mr. Sadashiv S. Shete, Advocate for petitioner
Mr. Y.G. Gujarathi, Asstt. Govt. Pleader for respondents no.1,3 & 4

CORAM : SUNIL P. DESHMUKH, J.

DATE : 7th March, 2019

ORAL JUDGMENT:

1. At the outset, learned counsel Mr. Shete for petitioner, on instructions, seeks leave to delete respondents no.2 and 5 claiming that they are not necessary parties.
2. Leave granted. Respondents no.2 and 5 are deleted at the risk and peril of the petitioner.
3. Rule. Rule made returnable forthwith. Heard learned counsel for the parties finally with consent.
4. There is no particular dispute on the factual aspects that Petitioner had submitted her caste validity claim before the competent authority through the Tahsildar, Gangapur, on 19th January, 2017 and she had been elected as a member of the *Panchayat Samiti*, Gangapur, Taluka Gangapur District Aurangabad, held in February, 2017 from Scheduled Caste (*Chambhar*) - Female category. She had also complied with the directions of the District Caste Scrutiny Committee, Aurangabad, vide letter dated 2nd May, 2017. The District Scrutiny Committee, Jalna, has issued to her validity certificate on 27th November, 2018.
5. However, on the basis of report submitted by respondent no.4 Sub-Divisional Officer, Vaijapur, respondent no.3

the Collector, Aurangabad, has passed impugned order dated 2nd February, 2019 disqualifying petitioner as member of Panchayat Samiti, Gangapur, for non-submission of caste validity certificate within stipulated period, without affording any opportunity to her.

6. Having regard to clause (8) of the Ordinance No. XXI of 2018 dated 11th October, 2018 and particularly, clause (4) of Ordinance dated 14th February, 2019 promulgated by the State Government, 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. ” ;

it emerges that the impugned order is unsustainable.

7. As the petitioner claims to have received the caste validity certificate dated 27th November, 2018, in the circumstances, the petitioner to submit the same with the concerned authority by 5th May 2019. On submission of such certificate, the petition shall stand allowed.

8. In case of failure to submit the certificate with competent authority, the petition shall be deemed to have been dismissed.

9. Rule is made absolute.

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

Madkar