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

WRIT PETITION NO.3396 OF 2019

1. Narendra Shivaji Khairnar
Age: 44 Yrs., occu. Agril.
R/o Dusane, Tq. Sakri,
District Dhule.
2. Smt. Jayashree w/o Narendra
Khairnar @ Jayashree d/o
Vilas Gangurde, Age: 38 Yrs.,
occ. Household, r/o as above.
3. Jaywant Shankar Shinde,
Age: 52 Yrs., occu. Agril.
R/o as above.
4. Smt. Malubai w/o Bhaskar Karankal
@ Malti d/o Sahebrao Jadhav,
Age: 48 Yrs., occu. Household,
R/o as above.
5. Smt. Sitabai w/o Puramal Bhil
Sitabai d/o Gulab More,
Age: 55 Yrs., occu. Household,
R/o as above.
6. Bacchubai w/o Babuji More
@ Bacchubai d/o Zendu Dandge,
Age: 55 Yrs., occu. Household,
R/o as above.

= PETITIONERS

VERSUS

1. The State of Maharashtra
Through the Secretary
for Rural Development Deptt,
Mantralaya, Mumbai.
2. The Additional Collector,
Dhule, Dist. Dhule.
3. The Tahsildar, Sakri,
Tq. Sakri, Dist. Dhule.
4. The Gram Panchayat, Dusane,
Tq. Sakri, Dist. Dhule
Through its Gram Sevak

= RESPONDENTS

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Mr.VD Hon, Sr.Counsel for petitioners;
Mr.KS Patil,AGP for Respondents.
Mr.Amol S.Sawant, Adv. For caveator(not made party)

CORAM : P.R.BORA, J.
DATE : 13th March, 2019

JUDGMENT

1. Heard Shri Hon, learned Sr.Counsel appearing for petitioners and learned AGP Shri KS Patil appearing for Respondent Nos.1 to 4.

2. The petitioners are the elected members of Gram Panchayat, Dusane, Tq. Sakri, District Dhule. The petitioners were elected as members of the said Gram panchayat in the elections held in the year 2015. The results of the elections were declared on 7th August, 2015. All these petitioners were elected from the reserved constituencies. They were under an obligation to submit their caste validity certificates within the period of six months from the date of declaration of the results.

3. Two persons from the village, viz. Nana Narayan Wagh and Bhatu Kashinath Bhadane raised a Dispute bearing No.41/2018 before the Collector,

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Dhule, alleging that the petitioners be disqualified for not submitting the caste validity certificates within the stipulated period. On such dispute being raised, an inquiry was conducted by the Additional Collector, Dhule and eventually, an order came to be passed on 26th February, 2019, disqualifying the petitioners from holding the post of members of the village panchayat, Dusane. The said order is impugned in the present petition.

4. Shri VD Hon, learned Sr.Counsel submitted that all the petitioners have received the caste validity certificates and they have submitted the same with the Tahsildar, who is an appropriate authority for the said purpose. The learned Sr. counsel further submitted that in view of Government Ordinance dated 14th February, 2019, issued by Rural Development Department, Government of Maharashtra, members of the Gram panchayat, who had submitted their caste validity certificates on or before issuance of the said Ordinance or who would submit the caste validity certificate within three months from the date of issuance of such Ordinance, would not liable to be disqualified.

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5. The learned Sr.Counsel further submitted that though learned Additional Collector, Dhule in his impugned order has noted that petitioner Nos. 1, 2 and 4 have submitted their caste validity certificates and the same were verified by the appropriate authority, has disqualified them on the ground that they did not submit their caste validity certificates within the period of one year from the date of declaration of the results. The learned Sr.Counsel further submitted that the learned Additional Collector has committed an error in interpreting the Ordinance dated 14th February, 2019, which has resulted in passing the erroneous order by him, disqualifying petitioner Nos.1, 2 and 4.

6. The learned Counsel further submitted that in so far as petitioner Nos.3, 5 and 6 are concerned, though it is noted in the order that they did not produce their original caste validity certificates, the information is factually incorrect. The learned Sr. Counsel submitted that these petitioners are ready to produce the said original caste validity certificates before the

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competent authority for verification. The learned Sr.Counsel, in the circumstances, prayed for setting aside the impugned order and to restore the petitioners to their post of members of the village panchayat, Dusane.

7. Learned AGP Shri KS Patil has submitted that so far as petitioner Nos.1, 2 and 4 are concerned, the order passed by the Collector is difficult to be supported; however, in so far as other petitioners are concerned, no interference is required in the impugned order since these petitioners have failed in producing their original caste validity certificates for verification.

8. I have carefully considered the submissions advanced by the learned Sr.Counsel and the learned AGP. I have also perused the impugned order and the other material on record. In view of the Government Ordinance dated 14th February, 2019, there remains no doubt that the members of the village panchayat, who had been elected on the reserved seats and who have submitted their caste validity certificates on or before the issuance of

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the said Government Ordinance, are not to be disqualified on the ground of not submitting the caste validity certificates within the period which was stipulated prior to the amendment brought by the Ordinance.

9. In the impugned order, it has been specifically noted that petitioner Nos. 1, 2 and 4 have submitted their original caste validity certificates and they were verified by the competent authority; however, these petitioners have been disqualified for not submitting their caste validity certificates within the period of one year from the date of declaration of the results. It is observed in the impugned order that the caste validity certificates issued in favour of these petitioners are of the date 24.10.2018, i.e. beyond the period of one year after declaration of the results of the Gram panchayat. However, it has to be stated that vide the Government Ordinance dated 14th February, 2019, the members of the Gram panchayat, who got elected from the reserved seats and who submitted their caste validity certificates after expiry of the stipulated period, but before

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publication of the amendment ordinance dated 14th February, 2019, are directed not to be disqualified on the said ground. It has also been however provided in the said ordinance that the members who will submit the caste validity certificates within the period of three months after issuance of the said ordinance dated 14th February, 2019, would also be protected from being disqualified.

10. It appears that either the aforesaid ordinance was not before the learned Additional Collector or its import was not properly appreciated by him. When petitioner Nos. 1, 2 and 4 have submitted their caste validity certificates before issuance of the Government Ordinance dated 14th February, 2019, in view of the said ordinance, petitioner Nos.1, 2 and 4 could not have been disqualified. In the circumstances, in so far as petitioner Nos.1, 2 and 4 are concerned, the impugned order deserves to be set aside and it is accordingly set aside and these petitioners are restored to their post of members of Gram panchayat Dusane.

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11. It has been submitted by learned Sr. Counsel Shri Hon that the post of petitioner Nos. 1, 2 and 4 are still vacant and no elections are held for filling the said posts. No contrary evidence has been brought on record, controverting the submission so made by the learned Sr.Counsel

12. In so far as petitioner Nos.3, 5 and 6 are concerned, as is revealing from the impugned order, these petitioners did not submit their original caste validity certificates before the competent authority though they have submitted the xerox copies of their caste validity certificates. It was contended by the learned Sr. Counsel that these petitioners are ready to submit their original caste validity certificates again for verification. In view of the submission so made, it would meet the ends of justice, if petitioner Nos.3, 5 and 6 are directed to submit their original caste validity certificates to the competent authority and if further directions are given to the competent authority to verify the same and pass necessary orders in that regard. In the circumstances, in so far as petitioner Nos.3, 5 and

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6 are concerned, the matter is remitted to the Collector, Dhule with a direction to decide it afresh by giving an opportunity to the said petitioners to place on record their original caste validity certificates. It is directed that petitioner Nos.3, 5 and 6 shall submit their original caste validity certificates before the competent authority on or before 8th May, 2019. Till then, no further process be carried out for filling the post of the aforesaid petitioners.

13. The writ petition stands disposed of in the aforesaid terms.

(P.R.BORA)
JUDGE

BDV
fldr 15.3.19