

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

WRIT PETITION NO.4346 OF 2019

Sharda Rohidas Ude @ Surshe Suresh Sharda
Age: 31 Yrs., occu. Member,
R/o ?Solegaon, Tq. Gangapur,
District Aurangabad. = **PETITIONER**

VERSUS

- 1) The State of Maharashtra,
Through the District Collector,
Aurangabad, Tq. and Dist.
Aurangabad.
- 2) The Sub-Divisional Officer,
Vaijapur, Tq. Gangapur,
District Aurangabad.
- 3) The Tahsildar, Gangpur,
Tq.Gangapur, Dist. Aurangabad. = **RESPONDENT**

Mr.Ravindra V.Gore, Advocate for Petitioner;
Mr.SD Ghayal,AGP for Respondents.

CORAM : P.R.BORA, J.
DATE : 3rd April, 2019

ORAL JUDGMENT

1. Rule. Rule made returnable forthwith by consent of parties.
2. Heard Shri Gore, learned counsel for petitioner and learned AGP for Respondent-State.
3. The petitioner was elected as a member of Solegaon Grampanchayat in the elections held on 9th

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March, 2017. The petitioner belongs to scheduled castes. At the time of filing the nomination, she has not submitted the Caste Validity Certificate since her caste claim was not validated till the said date. The learned counsel submitted that the proposal of the petitioner was forwarded to the Caste Scrutiny Committee for validation of her caste claim and the Caste Scrutiny Committee has issued the Caste Validity Certificate, certifying that the petitioner belongs to scheduled caste on 23rd October, 2018. The learned counsel submits that the Caste Validity Certificate so issued by the committee was tendered by the petitioner before Tahsildar, Gangapur on 12th November, 2018; however, Collector, Aurangabad has disqualified the petitioner, vide the impugned order dated 2nd February, 2019, observing that the Caste Validity Certificate was not submitted within a period of six months as stipulated under Section 10-1A of the Maharashtra Village Panchayats Act. The said order is challenged in the present writ petition.

4. When the present petition is taken up for hearing, learned counsel tendered across the Bar a

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copy of the judgment delivered by learned Single Judge at Nagpur Bench in Writ Petition No. 968/2017 delivered on 25th February, 2019 and the judgment delivered by this court on March 6, 2019 in Writ Petition No.3975/2018. The learned counsel submits that the facts of the present petition are identical to the facts involved in both the aforesaid petitions. The learned counsel pointed out that in view of the latest Government Ordinance, the outer limit for submitting the Caste Validity Certificate is extended till 14th May, 2019 and since the present petitioner has submitted her Caste Validity Certificate before the said date, the decision rendered by the learned Collector, disqualifying the petitioner on the said ground, cannot be sustained. The petitioner, therefore, has prayed for setting aside the impugned order and to restore the present petitioner to the post of member of the Gram Panchayat Solegaon.

5. Learned AGP submitted that in view of the Government Ordinance subsequently issued and in view of the judgments relied upon by the learned

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counsel appearing for the petitioner, as aforesaid, appropriate orders may be passed.

6. It requires no debate that the issue of disqualification on account of not furnishing of the caste/tribe validity certificate within six months, as prescribed under section 10-1A of the Maharashtra Village Panchayats Act, 1958, has been considered by the learned full bench of this Court in the matter of Anant H. Ulhalkar versus Chief Election Commissioner (2017 (1) Mh.L.J.431). It was concluded that the prescribed period of six months for submitting the caste validity certificate is a mandate of law. The matter was taken to the Honourable Apex Court and in the matter of Shankar S/o Raghunath Devre (Patil) versus State of Maharashtra in Petitions for Special Leave to Appeal (C)Nos.29874-29875/2016, arising out of the Judgment & Order dated 2.9.2016 in Writ petition No.5686/2016 and 1.10.2016 in R.P.No.201/2016 in W.P.No.5686/2016, the Honourable Apex Court sustained the view taken by the learned full bench.

7. Pursuant to the above, the State of Maharashtra introduced an ordinance on 11.10.2018,

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by which the time/period for submitting the caste validity certificate was extended and those persons who were elected in the elections held from 31.3.2016 onwards were permitted to submit their caste validity certificates. Thereafter, by an ordinance No.II/2019 dated 14.2.2019, the State of Maharashtra resolved to grant the benefit of belatedly submitting caste validity certificate to such elections which were held between 26.3.2015 to 31.3.2016 for about 19,000 village Grampanchayats.

8. Considering this ordinance, this Court at Nagpur Bench has passed an order on 25.2.2019 in the matter of Priya Rahul Kakade versus The Collector, Akola and others in Writ Petition No.968/2017.

9. Clause 4 of the Government Ordinance No.II of 2019 causes an amendment to section 8 of the Maharashtra Grampanchayat Act (62 of 2018(LXII/2018) by which it stands amended as follows:-

"4. Section 8 of the amendment Act, shall be re-numbered as sub-section (1) thereof and after sub-section(1) as so renumbered, following sub-

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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

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date of publication of the Maharashtra Village Panchayats and the Maharashtra Zilla Parishads and Panchayat Samitis (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."

10. Having regard to the Ordinance, as above and in view of the order dated 25.2.2019 passed by this Court at Nagpur in Priya Rahul Kakade (supra), this petition is allowed. The impugned order dated 2.2.2019, whereby the petitioner has been disqualified, is quashed and set aside and the petitioner stands restored to the position as a Member of the Grampanchayat, Solegaon. The petition stands allowed accordingly.

(P.R.BORA)
JUDGE

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