

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 5012 OF 2019  
IN  
WRIT PETITION NO. 1235 OF 2017

- 1] Mudrikabai W/o Ganpatil Giri  
Age : 48 years, Occu. Agri. &  
Member of village Panchayat,  
R/o. Khanapur, Tq. Renapur,  
Dist. Latur
- 2] Manchak S/o Pandhari Mudame,  
Age : 50 years, Occu : Agri. &  
Member of village Panchayat,  
R/o : Khanapur, Tq. Renapur,  
Dist. : Latur
- 3] Lalasaheb S/o Mahadu Mudame,  
Age : 48 years, Occu : Agri. &  
Member of village Panchayat,  
R/o : Khanapur, Tq. Renapur,  
Dist : Latur

.. Applicants

Versus

- 1] The State of Maharashtra  
Through the Secretary,  
Rural Development Department  
Mantralaya, Mumbai
- 2] The Additional Divisional Commissioner,  
Aurangabad
- 3] The Additional Collector,  
Latur
- 4] The Tahsildar,  
Tahsil Office, Renapur,  
Tq. Renapur, Dist. Latur

5] Scheduled Tribe, Caste Certificate  
Scrutiny Committee, Aurangabad,  
Division, Aurangabad  
through its Member Secretary

6] The Village Development Officer,  
(Gramsevak), Village Panchayat,  
Khanapur, Tq. Renapur,  
Dist. Latur

7] Yuraj S/o Annasaheb (Patil) Jadhav,  
Age : 45 years, Occu : Agril,  
R/o : Khanapur, Tq. Renapur,  
Dist. Latur

.. Respondents

...  
Mr. S.S. Shinde, Advocate for applicants  
Mr. R.P. Adgaonkar, Advocate for respondent no. 7 - *caveator*  
Mr. S.S. Dande, AGP for respondent-State  
...

CORAM : SUNIL P. DESHMUKH &  
S.M. GAVHANE, JJ.  
DATE : 07-06-2019

ORDER :

1. This civil application has been moved seeking re-induction of stay to the disqualification order dated 27-12-2016 passed by additional commissioner, Aurangabad for non-compliance of section 10-1A of the Maharashtra Village Panchayats Act. It appears that, initially this court had declined the request for interim relief in the shape of stay under its order dated 25-01-2017. Subsequently, keeping in view stay by supreme

court to judgment of full bench of this court in the case of *Anant H. Ulahalkar and others Versus Chief Election Commissioner and others* reported in *2017(1) Mh.L.J. 431*, aforesaid order dated 27-12-2016 of the additional commissioner disqualifying the petitioner had been stayed by an order in application bearing no. 3174 of 2017 on behalf of petitioner. Learned counsel for applicant further refers to that, decision in *Anant H. Ulahalkar* (supra) stood approved by supreme court, later. Learned counsel for applicants submits in all fairness that civil application no. 3174 of 2017 had not been pressed subsequently.

2. However, learned counsel for applicants-petitioners submits that in the interregnum, the State of Maharashtra had issued order dated 14-02-2019, referred to as "Maharashtra Village Panchayats and the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) (Amendment) Ordinance, 2019" causing amendments to Maharashtra Village Panchayats and the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) Act, 2018. Under clause 4 of the Ordinance, section 8 of the Amendment Act (Maharashtra Act No. LXVI of 2018) had been renumbered as sub-section (1) thereof and after amended sub-section (1), following sub-section is added, reading, thus,

*“ (2) Notwithstanding anything contained in sub-section (1), any person who has obtained Caste Certificate or Validity Certificate after the 26<sup>th</sup> 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. ”*

3. Learned counsel for applicants submits that applicants no. 1 and 2 - petitioners no. 1 and 2 have submitted their respective validity certificates decided in their favour before the expiry of the date referred to in sub-section (2) above. In the circumstances, having referred to this statutory emerging position, civil application no. 3174 of 2017 had been rendered redundant since protection had been made available to the applicants. He, therefore, requests and urges to reinduct the interim relief, staying the order of disqualification of applicants no. 1 and 2 - petitioners no. 1 and 2.

He purports to concede to the position emanating as applicant no. 3 - petitioner no. 3 would not be protected under aforesaid provisions, under sub-section (2) under clause 4 of the Ordinance, him being unable to produce requisite validity certificate.

4. On the other hand, learned counsel for respondent particularly Mr. Adgaonkar appearing for respondent no. 7 purports to point out that there is discrepancy in the name of applicant - petitioner no. 1 and the validity certificate which she claims in support of her protection.

5. Learned counsel for petitioner accepts the situation, stating that validity certificate had been issued in applicant no.1's/ petitioner no.1's maiden name and Bhalibua is her father whereas she had contested the elections after marriage and had submitted nomination in her marital name. Since the position about identification of person being not seriously disputed, we deem it appropriate that having regard to Ordinance giving protection, there shall be stay to the disqualification order.

6. In view of aforesaid, we deem it appropriate to reinduct interim relief and the order impugned in writ petition

dated 27-12-2016 passed by additional commissioner, Aurangabad, disqualifying the petitioner shall stand stayed until further orders. The consequences flowing from this interim relief may follow.

7. Civil application accordingly is disposed of.

[S.M. GAVHANE]  
JUDGE

[SUNIL P. DESHMUKH]  
JUDGE

arp/