

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5610 OF 2017

- 1) Rukhmini Vitthal Sabale,
Age-27 years, Occu:Housewife,
R/o-Shekte, Tq-Pathardi,
District-Ahmednagar,
- 2) Sulochana Babasaheb Batule,
Age-Major, Occu:Housewife,
R/o-Bharajwadi, Tq-Pathardi,
District-Ahmednagar,
- 3) Manik Ramrao Batule,
Age-Major, Occu:Agril.,
R/o-Bharajwadi, Tq-Pathardi,
District-Ahmednagar,
- 4) Mirabai Bhaulal Chemate,
Age-Major, Occu:Housewife,
R/o-Eknathwadi, Tq-Pathardi,
District-Ahmednagar,
- 5) Devidas Ashok Khedkar,
Age-Major, Occu:Agril.,
R/o-Eknathwadi, Tq-Pathardi,
District-Ahmednagar,
- 6) Shobha Pandurang Kedar,
Age-Major, Occu:Housewife,
R/o-Jawalwadi, Tq-Pathardi,
District-Ahmednagar,
- 7) Gangubai Rajendra Ambildhage,
Age-Major, Occu:Housewife,
R/o-Jogewadi, Tq-Pathardi,
District-Ahmednagar,

- 8) Mandakini Navnath Dhakane,
Age-Major, Occu:Housewife,
R/o-Dhakanwadi, Tq-Pathardi,
District-Ahmednagar,
- 9) Ashvini Vaijanath Karad,
Age-Major, Occu:Housewife,
R/o-Yeli, Tq-Pathardi,
District-Ahmednagar,
- 10) Vishrantibai Murlidhar Borude,
Age-Major, Occu:Housewife,
R/o-Yeli, Tq-Pathardi,
District-Ahmednagar,
- 11) Dadasaheb Janardhan Palve,
Age-Major, Occu:Agril.,
R/o-Yeli, Tq-Pathardi,
District-Ahmednagar,
- 12) Swati Dattatraya Dhole,
Age-Major, Occu:Housewife,
R/o-Yeli, Tq-Pathardi,
District-Ahmednagar,
- 13) Sindhubai Ratan Kamble,
Age-Major, Occu:Housewife,
R/o-Jatdeole, Tq-Pathardi,
District-Ahmednagar,
- 14) Nandabai Rama Shinde,
Age-Major, Occu:Housewife,
R/o-Jatdeole, Tq-Pathardi,
District-Ahmednagar,
- 15) Mira Hanumant Dhaytadak,
Age-Major, Occu:Housewife,
R/o-Akola, Tq-Pathardi,
District-Ahmednagar,

- 16) Vanita Bapu Kekan,
Age-Major, Occu:Housewife,
R/o-Akola, Tq-Pathardi,
District-Ahmednagar,
- 17) Dushala Bhausahab Budhawant,
Age-Major, Occu:Housewife,
R/o-Shirapur, Tq-Pathardi,
District-Ahmednagar,
- 18) Suvarna Prakash Udage,
Age-Major, Occ:Housewife,
R/o-Susare, Tq-Pathardi,
District-Ahmednagar,
- 19) Chhayabai Keshav Pawar,
Age-Major, Occ:Housewife,
R/o-Susare, Tq-Pathardi,
District-Ahmednagar.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through the Secretary,
Rural Development Department,
Mantralaya, Mumbai-32,
- 2) Caste Certificate Scrutiny Committee,
Nashik Division, Nashik Committee No.1,
Nashik,
- 3) The Divisional Commissioner,
Nashik Division, Nashik,
- 4) The Additional Collector,
Ahmednagar,
- 5) The Tahsildar,
Pathardi, Tq-Pathardi,
District-Ahmednagar.

...RESPONDENTS

...
Mr. Sk. Ashraf Patel Advocate h/f. Mr. Abhijit P. Avhad
Advocate for Petitioners.
Mr.A.V. Deshmukh, A.G.P. for Respondents No. 1 to 5.
...

**CORAM: SUNIL P. DESHMUKH AND
B.U. DEBADWAR, JJ.**

DATE : 10TH DECEMBER, 2019

ORAL JUDGMENT [PER SUNIL P. DESHMUKH, J.] :

1. Rule. Rule made returnable forthwith. Heard learned counsel for the appearing parties finally, by consent.

2. The petitioners are before this court aggrieved by orders passed the additional collector, Ahmednagar on 16th September, 2016 and 23rd December, 2016. Elections to various grampanchayats were held in August, 2015 and the petitioners were duly elected as candidates belonging to respective reserved classes. Pursuant to then prevailing provisions, petitioners were expected to submit validity certificates certifying that they belongs to reserved classes, before 9th February, 2016. However, validity certificates in favour of petitioners were issued by scrutiny committee after 9th February, 2016 to July, 2016.

According to petitioners, upon receipt of validity certificates, copies thereof were duly submitted with the concerned authorities.

3. An exercise had been undertaken by the additional collector pursuant to provisions of Maharashtra Village Panchayat Act, 1958 upon an application of tahsildar referring to section 10-1A of the said Act, and petitioners were declared to be disqualified under an order passed on 16th September, 2016 and under a common order passed on 23rd December, 2016, for non submission of validity certificates as required under said provision.

4. The State of Maharashtra had issued an Ordinance No. II of 2019 notified on 14th February, 2019 and under section 4 thereof, following amendment to Maharashtra Village Panchayats and the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) Act, 2018 has been incorporated:

"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 Panchayat 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.”

5. There does not appear to be any dispute that petitioners, upon receipt of validity certificates, have submitted

the same to the concerned authorities before the dates as is referable to under the amended provision.

6. In the interregnum, it transpires that though under the orders of additional collector the posts held by petitioners were declared to be vacant, no elections had ever taken place and the posts are still lying vacant.

7. In the circumstances, it appears that disqualification incurred under the orders of the additional collector, stands saved by operation of the Ordinance. Thus, the impugned orders are rendered untenable and are required to be set aside.

8. Writ petition is allowed. Impugned orders dated 16th September, 2016 and 23rd December, 2016 passed by additional collector, Ahmednagar, under aforesaid circumstances, are quashed and set aside. Rule is made absolute, accordingly.

(B.U. DEBADWAR, J.)

asb/DEC19

[SUNIL P. DESHMUKH, J.]