

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

905 WRIT PETITION NO.7234 OF 2019

REKHA SUNIL SONWANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Kulkarni Govind A.
AGP for Respondents No.1 & 2:Mr.S.P. Tiwari
Advocate for Respondent No.4 :Mr. S.V. Patil h/f Mr. M.S. Deshmukh
Advocate for Respondent No.3 :Mr. B.S. Deshmukh
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CORAM : **RAVINDRA V. GHUGE, J.**

Date: July 23, 2019
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PER COURT :-

1 On 18.6.2019, I had passed the following order:-

“ 1 The petitioner is aggrieved by the order dated 11.02.2019 passed by the District Collector, Jalgaon vide which, the proceeding bearing Nagar Palika Dispute Application No.25/2018 initiated by the petitioner seeking disqualification of respondent No.4 under section 9-A of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial township Act, 1965 on account of having failed in submitting the tribe validity certificate within the prescribed time, has been rejected.

2 The record reveals that respondent no.4 had contested the election to the Bhusawal Municipal Council from ward no.24, which was reserved for the Scheduled Tribe Category candidate. The mandate under section 9-A was to render the tribe validity certificate within six months from the date of the election results.

3 The learned Full Bench of this Court, in the matter of **Anant H. Ulahalkar vs. Chief Election Commissioner and another, 2017 (1) Mh.L.J. 431**, concluded that the scheme under Section 9-A is mandatory and in the event, an elected representative fails to tender the caste/tribe validity certificate within six months, he shall incur a disqualification under Section 9-A. This verdict of the learned Full Bench was carried to the Honourable Supreme Court in the group of special leave petitions and by the decision

*delivered in **Shankar Raghunath Devre (Patil) vs. State of Maharashtra and others in petitions for Special Leave to Appeal No.29874-29875 of 2016 decided on 23.08.2018, Section 9-A** was held to be mandatory.*

4 *The learned AGP submits that the State of Maharashtra has introduced the ordinance thereby, enlarging the period for submitting such caste/tribe validity certificates. He submits that the intention of the Government is to protect such elected candidates from disqualification and enable them to submit their validity certificates.*

5 *The learned AGP, however, places on record the communication dated 17.06.2019 received from the District Administrative Officer, Jalgaon along with the copy of the decision of the Scheduled Tribe Certificate Scrutiny Committee, Nandurbar dated 31.01. 2019 by which, the claim of respondent no.4 seeking validation of his “Thakur” Scheduled Tribe certificate has been reject ed.*

6 *The copy of the communication dated 17.06.2019 along with the decision of the Committee dated 31.01.2019 is taken on record and marked “X” for identification.*

7 *The learned advocate for the petitioner submits that in this backdrop, respondent no.4 would incur a disqualification.*

8 *Issue notice to the respondents returnable on 12.07.2019. Humdast granted on request. The learned AGP waives service for respondent nos.1 and 2. ”*

2 The learned Advocate for respondent No.4, vehemently opposes the petition.

3 There is no dispute that the Honourable Apex Court has mandated the filing of the validity certificate by the candidates, who are elected to the seats reserved for the castes or tribes. It is also undisputed that the State of Maharashtra introduced Ordinance No.2 on 14.2.2019, again extending the period for filing validity certificates up to 14.5.2019. There has been no

further ordinance enlarging the period for filing of such validity certificates. It is also conceded that respondent No.4 has suffered an order of invalidation of his tribe claim. He, therefore, stands disqualified instantly and with retrospective effect from the date of his election.

4 Learned Advocate for respondent No.4 submits that he has challenged the invalidation order dated 31.1.2019, before the learned Division Bench. As such, for the last six months, respondent No.4 is without any relief against the invalidation of his tribe certificate and therefore, suffers disqualification under section 9-A of the Maharashtra Municipal Councils, Nagar Parishads and Industrial Township act, 1965.

5 In view of the above, the impugned order dated 11.2.2019 passed by the District Collector, declining to issue any order in SR No.25/2018, stands quashed and set aside and SR No.25/2018 stands allowed. Respondent No.4 has therefore, incurred disqualification under section 9-A from the date of his election.

6 Needless to state, in the event, the said respondent, who is without any protection for the last six months, succeeds in his proceedings before the learned Division Bench, challenging his invalidation, he would be entitled to such rights as would be flowing under the law.

(RAVINDRA V. GHUGE, J)