

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.10083 OF 2019

Sangita Kabir Pittalwad

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr.A.S.Golegaonkar, advocate holding for Mr.M.A.Golegaonkar, advocate for the petitioner.

Mr.S.R.Yadav, AGP for the Respondents No.1 to 5.

Mr.A.R.Jagtap, advocate holding for Mr.A.K.Bhosale, advocate for Respondent No.6.

CORAM : RAVINDRA V. GHUGE, J.

DATE : 13th August, 2019

PER COURT:

1 The petitioner is aggrieved by the order dated 23.07.2019, passed by the Additional Divisional Commissioner, Aurangabad, by which the petitioner has been disqualified as a directly elected *Sarpanch* by upholding the order of the District Collector, dated 05.03.2019. As a consequence of the said orders, the petitioner, directly elected *Sarpanch* of village Andhori, has been disqualified under Section 10-1A of the Maharashtra Village Panchayats Act, 1959.

2 The learned advocate for the petitioner has strenuously criticised the impugned orders. The contention is that the petitioner was elected directly as a lady *Sarpanch*. The post of the *Sarpanch* was reserved for Scheduled Tribe's category. On the date of filing her nomination papers, she had tendered an undertaking along with a copy of the pending claim seeking validity of the tribe certificate to which the petitioner belongs.

3 The petitioner then moved the learned Division Bench of this Court in Writ Petition No.12875 of 2018, seeking a direction to the Tribe Committee to decide her claim expeditiously. The learned Division Bench protected the petitioner for two months against any adverse order. Unfortunately, the Committee has still not decided her tribe claim.

4 The learned AGP, on behalf of the State authorities and Mr.Jagtap, the learned advocate on behalf of Respondent No.6, have opposed this petition on two grounds. Firstly, that the learned Full Bench of this Court has concluded in **Anant H. Ulhalkar & another Vs. Chief Election Commissioner & others**, 2017 (1) BCR 230, that the tendering of a validity certificate by an elected representative under Section 9A of the Maharashtra

Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, within six months of the election, is mandatory. Similar matters were taken to the Hon'ble Apex Court and in the matter of **Shankar s/o Raghunath Devre (Patil) Vs. State of Maharashtra & others [(Petitions) for Special Leave to Appeal (C) Nos.29874-29875/2016]**, the Hon'ble Apex Court has held that the respective provisions of Section 9A under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, and Section 10-1A of the Maharashtra Village Panchayats Act, are mandatory in nature.

5 It is further pointed out that the State of Maharashtra has issued the Maharashtra Ordinance-II on 14.02.2019 giving one more chance to such petitioners to file their caste/tribe validity certificates on or before 14.05.2019. If not filed, they have to suffer disqualification from 15.05.2019.

6 In view of the above and considering the law crystallized by the Hon'ble Apex Court, the petitioner cannot continue as a *Sarpanch* after 14.05.2019, having failed in submitting the caste/tribe validity certificate.

7 This petition, being devoid of merit, is, therefore,
dismissed.

RAVINDRA V. GHUGE
JUDGE

adb/