

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

WRIT PETITION NO.11977 OF 2016

SANGEETA ACHYUT BANSODE AND OTHERS
VERSUS
RAJKUMAR VYANKATRAO KALME AND OTHERS

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Advocate for the Petitioners : Shri Manoj Shinde and Shri S.N.Patil.

Advocate for Respondents 1 and 2 : Shri B.M.Dhanure.

AGP for Respondents 3 and 4 : Shri N.T.Bhagat.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 28th January, 2019

Per Court:

1 The learned Advocate Shri Sachin S. Panale, who has caused an appearance on behalf of the Petitioners, seeks discharge in view of the appearance of Shri Patil, learned Advocate. As such, the appearance of Shri Panale is discharged.

2 I have heard the learned Advocates for the Petitioners, Respondent Nos.1 and 2 and the learned AGP on behalf of Respondent Nos.3 and 4/ State.

3 The issue is as regards the applicability of Section 10-1A and the proviso thereunder, of the Maharashtra Village Panchayats Act in view of the judgment of 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 and in view of the said judgment having been sustained by the Honourable Supreme Court in the matter of ***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***. Another issue that has been raised by the Petitioners is, in the light of the new Ordinance introduced by the State of Maharashtra being Maharashtra Ordinance No.XXI of 2018 on 11.10.2018 by which, those candidates requiring the submission of the caste/ tribe validity certificates within six months and have not incurred disqualification prior to 31.03.2016, will now be entitled for extension of further six months making it a total period of 12 months for submission of such caste/ tribe validity certificates.

4 This Court has decided similar matters by order dated 10.12.2018 in ***Writ Petition No.2688/2017 (Satish Babruvan Dede and others vs. The State of Maharashtra and others)*** and ***Writ Petition No.2883/2017 (Baynabai Kathalu Pundge and others vs. The State of Maharashtra and others)***.

5 In the said matter decided on 10.12.2018, this Court had considered the said cases by recording that the six months period applicable to those Petitioners for submitting their caste/ tribe validity certificates, had expired prior to 31.03.2016, which is the cut off date

introduced by the State Government.

6 In the instant case, the election results were declared on 25.04.2015. Petitioner No.1 submitted the validity certificate on 15.03.2016, Petitioner No.2 on 15.03.2016, Petitioner No.3 on 04.12.2015 and Petitioner No.4 15.06.2016. Prima facie, all these Petitioners would be governed by the law as it was applicable on the date of their election results, which is 25.04.2015 and as such, they had only six months at their disposal to submit their validity certificates. All of them have tendered their validity certificates after six months thereby, being covered by the law laid down by the Honourable Supreme Court in the matter of *Shankar Devre Patil (supra)*. It is undisputed that the State Government specifically introduced the cut off date of 31.03.2016 for increasing the period of six months to 12 months, by their notification introduced on 11.10.2018.

7 Though the learned Advocate for the Petitioners has strenuously contended that the introduction of the ordinance on 11.10.2018 would rescue them, I find that these Petitioners have already incurred disqualification in view of the judgment of the Honourable Supreme Court by which, they stand disqualified for non submission of the validity certificates immediately after completion of six months from the date of their election results. All of them have incurred disqualification much prior to 31.03.2016.

8 The learned Advocate for the Petitioners submits that the order passed by this Court on 10.12.2018 interpreting the new ordinance made effective from 31.03.2016, has been subjected to the litigation before the Honourable Supreme Court. Today, the Honourable Supreme Court has issued notice on interim relief to the Respondents, but has not granted any protection to the Petitioners therein.

9 After considering that the Honourable Supreme Court is dealing with the matter, I have considered for a moment as to whether, this matter could be simplicitor adjourned. However, the learned AGP and the learned Advocate appearing on behalf of the contesting Respondents submit that no purpose would be served by adjourning this matter because these Petitioners are not entitled to any protection since they have already incurred disqualification in the light of the order of the Honourable Supreme Court pertaining to the six months period and they stand disqualified much earlier to 31.03.2016, on 25.10.2015 to be precise.

10 In view of the above, this Writ Petition being devoid of merit is, therefore, dismissed.

11 The learned Advocate for the Petitioners submits that as the Honourable Supreme Court has issued notice in the SLP today and has posted the matters after six weeks, the interim relief granted by this Court on 03.05.2017 in this petition may be continued for a period of only six weeks. The learned AGP and the learned Advocate for the Respondents

oppose the said request. I find that as these Petitioners were under protective orders from 03.05.2017, the continuation of the said protection for another six weeks would not cause any prejudice to the Respondents. As such, the said protection is, therefore, continued for a period of SIX WEEKS.

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(RAVINDRA V. GHUGE, J.)