

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

912 WRIT PETITION NO.13231 OF 2018

HEMANT BABASAHEB NIKAM AND ANOTHER ..PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. V. D. Hon, Senior Advocate with Mr. Ashwin V. Hon, Advocate for the Petitioners.

Mrs. G. L. Deshpande, AGP for Respondents-State.

Mr. S. C. Wagh h/f Mr. Shivaji T. Shelke, Advocate for Respondent No.2.

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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATED : 6th MARCH, 2019.

PER COURT:-

1. The petitioners are elected as a members of the Gram Panchayat, Ukkadgaon, Tq. Kopargaon on 06.08.2015. The petitioner no.1 has submitted validity certificate on 23.05.2016 and petitioner no.2 has submitted validity certificate on 02.07.2016.

2. The State has issued Ordinance on 14.02.2019 incorporating following amendment:

"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 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. It is not disputed that prior to the date of enforcement of the Ordinance dated 14.02.2019, the State Election Commission has not held election to fill the post held by the present petitioners.

4. In light of that, the petitioners would be entitled to enjoy the benefit of the Ordinance dated 14.02.2019.

5. In view of the Ordinance passed, the

prayers in the writ petition do not survive and petitioners have already submitted validity as per the amended provision under the Ordinance dated 14.02.2019, the same will be considered within the stipulated period.

6. Writ Petition accordingly disposed of. No costs.

(A. M. DHAVALA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/March-19