

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

WRIT PETITION NO.13872 OF 2019

MAYA SURESH RATHOD  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

...  
Advocate for the Petitioner : Shri Thombre S.S. a/w Shri M.S.Karad  
AGP for the Respondents/ State : Shri N.T.Bhagat  
...

**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 18<sup>th</sup> November, 2019**

**Per Court:**

1           The petitioner is aggrieved by the order of the District Collector dated 05.01.2019 disqualifying the petitioner on account of her failure to submit the caste validity certificate within the time prescribed.

2           It is contended that no notice was issued to the petitioner while passing the impugned order. So also, the petitioner has acquired the caste validity certificate on 14.06.2019. She received the notice from the Sub Divisional Officer dated 09.08.2019 calling upon her to explain as to why she should not be disqualified.

3           The learned advocate for the petitioner submits that the petitioner had contested the election to the Gram Panchayat, Warzadi for the post of a member from ward no.3, which was reserved for the Other

Backward Category (Women). Her claim for validation was pending at the relevant time. She will have to be protected under the various ordinances issued by the State Government. Her claim is already validated by the Caste Scrutiny Committee and the caste validity certificate was issued on 14.06.2019.

4           The learned AGP submits that the order of the District Collector dated 05.01.2019 is not pre-mature in view of the Maharashtra Ordinance No.XXI/2018 dated 11.10.2018, which protects such elected candidates for the period of twelve months. However, even if the order of the District Collector dated 05.01.2019 is ignored for a moment, the Maharashtra Ordinance No.II/2019 dated 14.02.2019 allows the petitioner to submit the caste validity certificate on or before 14.05.2019. No protection can be granted now to the petitioner as she got the caste validity certificate on 14.06.2019.

5           It requires no mention that the issue as regards the mandate of producing the validity certificate within six months from the date of the election, has been sustained by the learned Full Bench of this Court in the case of *Anant H. Ulahalkar vs. Chief Election Commissioner and another, 2017 (1) Mh.L.J. 431*. After the matter was carried to the Honourable Supreme Court, in the case 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*, the

said mandate has been sustained. Subsequently, the State of Maharashtra has introduced various ordinances and extended the limit from time to time. The last such extension was by the Maharashtra Ordinance No.II/2019.

6 In view of the peculiar facts as recorded above, it is apparent that the protection granted by the State with the introduction of the Maharashtra Ordinance No.II/2019 is limited only upto 14.05.2019. Beyond the said date, the petitioner cannot be protected.

7 I find from Ordinance No.XXI/2018 dated 11.10.2018 that the candidates, who were elected in the elections held on or before 31.03.2016, were protected by extending the period to submit the caste validity certificate by six months from the date of the said ordinance. However, the election in which the petitioner was elected, was held in 2015 and therefore, on the date the District Collector passed the impugned order i.e. 05.01.2019, the petitioner was not protected. Considering the date on which the impugned order is passed, as there was no protection available to the petitioner, I do not find that the impugned order could be termed as being perverse or erroneous.

8 Notwithstanding the above, with the introduction of the Maharashtra Ordinance No.II/2019 on 14.02.2019, the elections held on or after 26.03.2015 are brought within the ambit of protection from disqualification. As such, by the Maharashtra Ordinance dated

11.10.2018, the period for submitting the caste validity certificate was increased from six months to one year and 15 days time was granted from the date of the issuance of the ordinance to submit the caste validity certificate. Apparently, the petitioner could not have filed the caste validity certificate as she received the same on 14.06.2019.

9            In view of the above, from any angle, the petitioner would not be protected and the impugned order dated 05.01.2019 cannot be faulted. The notice dated 09.08.2019 issued by the Sub Divisional Officer is apparently by inadvertence and the learned AGP would be right in contending that the said notice is issued inadvertently.

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

*kps*

**(RAVINDRA V. GHUGE, J.)**