

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.14681 OF 2019

SANJAY AMBADAS WAGH

VERSUS

THE COLLECTOR AURANGABAD AND OTHERS

WITH

WRIT PETITION NO.14682 OF 2019

SUREKHA VITTHAL SALVE @ SUREKHA SURESH SONWANE

VERSUS

THE COLLECTOR AURANGABAD AND OTHERS

. . .

Advocate for Petitioners : Mr.Avinash A. Khande

AGP for Respondent Nos. 1 to 3 : Mr.S.R.Yadav

Advocate for Respondent No.4 : Mr.A.B.Kadethankar

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CORAM : RAVINDRA V. GHUGE, J.

DATE : 5th December, 2019.

PER COURT :-

1. In both these petitions, the petitioners are before this Court on account of their disqualification as a Member of the Grampanchayat, Jamdi, Taluka Kannad,

District Aurangabad for the reason of having failed in submitting their Caste Validity Certificate. The election for the position of Members, which have fallen vacant on account of the disqualification of these two petitioners, is scheduled on 08/12/2019. Polling would take place and the results would be declared on 09/12/2019.

2. While hearing the learned Advocate for the petitioners, I informed him that, considering the law laid down by the learned Full Bench of this Court in the matter of **Anant H. Ulahalkar and another Vs. Chief Election Commissioner and others [2017(1) Mh.L.J. 431]** and the judgment of the Honourable Apex Court in the matter of **Shankar s/o Raghunath Devre(Patil) Vs. State of Maharashtra and others [(2019) 3 SCC 220]**, the law on tendering the Caste Validity Certificate within six months from the date of the election, has been held to be mandatory and, therefore, these petitioners would not be entitled for any protection notwithstanding the Maharashtra Ordinance No.II dated 14/02/2019, which

extends the period for such submission up to 14/05/2019.

3. The learned Advocate for the petitioners points out an order passed by the learned Division Bench of this Court at Aurangabad on 13/03/2019 in Writ Petition Nos.3388/2019 and 3405/2019 filed by these petitioners. Paragraph No.8 of the said order reads as under:-

"Accordingly, the petitions are disposed of, with directions to respondent No.4Scrutiny Committee to decide the claim of the petitioners as early as possible and not later than twelve weeks from the date of receipt of the order of this Court. We further direct respondent No. 3 Collector, Aurangabad not to take any coercive steps against the petitioners till the decision of the Committee. We further make it clear that on the decision of the Committee, respondent No.3 Collector, Aurangabad is at liberty to take appropriate steps as provided under law."

4. After considering the above, I am of the view that the learned Division Bench has granted 12 weeks protection to the petitioners with directions to the Caste Scrutiny Committee to decide their claims of validation within 12 weeks. The law crystallized by the learned Full Bench in the matter of *Anant H. Ulahalkar* (Supra) and the judgment of the Honourable Apex Court in the matter of *Shankar Raghunath Devre (Patil)* (Supra) and the Maharashtra Ordinance II of 2019, would apply to this case.

5. In view of the above, the learned Advocate for the petitioners submits that one of the petitioners, namely; Surekha Vitthal Salve has filed a fresh nomination form for the by-election to the position, which has fallen vacant because of her disqualification, on the strength of the Maharashtra Ordinance No.XXVI, dated 20/09/2019, which grants time to a candidate to submit the Caste Validity Certificate within a period of one year from the date of

declaration of the election results. He further submits that another petitioner, namely; Sanjay Ambadas Wagh has not filed such a nomination form and the last day for the filing of such nomination form has ended on 21/11/2019. He pressed for a direction that his nomination form, if tendered till tomorrow, be accepted. He relies on the judgment delivered by this Court in the matter of **Shabanabegam Younuspasha Shaikh Vs. The State of Maharashtra and other, in Writ Petition No.11708/2019.**

6. I am afraid, I cannot issue such a direction, in the light of the judgment delivered by the Honourable Apex Court in the matter of **Shri Sant Sadguru Janardhan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha & Anr. Vs. State of Maharashtra & Ors. [2001 AIR(SC) 3982].**

7. Considering the above, both these petitions are disposed off.

(RAVINDRA V. GHUGE, J.)

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