

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Writ Petition No.141 of 2018

Vishwajeet Gharde Vs. The State of Maharashtra Through Collector, Bhandara
& others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.A.P. Tathod, Advocate for petitioner
Ms. Kalyani Deshpande, Advocate for respondents No.1 to 4

CORAM : MANISH PITALE, J.

DATED : NOVEMBER 19, 2019

By this writ petition, the petitioner has challenged order dated 27/1/2017, passed by respondent Collector, whereby the petitioner was held to be disqualified to hold post of Member, Panchayat Samiti on account of failure to submit caste validity certificate within six months from the date of result of election as mandated under Section 12-A of the Maharashtra Zilla Parishad and Panchayat Samiti Act, 1961.

2. The result of election in the present case was declared on 06/07/2015. The validity certificate was issued in favour of the petitioner on 11/01/2016 and the same was submitted before the competent authority on 15/1/2016. Taking note of these dates, respondent Collector found in the impugned order that since the caste validity certificate was submitted

beyond the period of six months as mandated by the aforesaid provision, the petitioner stood disqualified.

3. This Court issued notice and granted ad-interim protection to the petitioner by order dated 11/01/2018, by virtue of which the petitioner has continued as Member of the Panchayat Samiti.

4. There is no dispute about the fact that the aforesaid requirement for submission of the caste validity certificate has undergone change after issuance of the Maharashtra Ordinance II of 2019. As per the provisions of the said Ordinance, an elected member could submit caste validity certificate within three months from the publication of said Ordinance and in such a situation, an elected member would not be disqualified on the basis of Section 12-A of the aforesaid Act, which stood amended by the said Ordinance. This Court had an occasion to deal with a similar situation in the case of **Sujata w/o Prabhu Fendar Vs. State of Maharashtra and others 2019(4) Mh.L.J. 916**, wherein in paragraph 8, this Court held as follows :

“By section 4 of the Maharashtra Ordinance No. II of 2019, section 8 of the Maharashtra Act No. LXVI of 2018 is amended and sub-section (2) is added. The effect of this amendment is that the person, who has obtained the caste certificate or validity certificate after 26-3-2015 but has not submitted the certificate within the stipulated period as per the provisions of the Act of 1961, is protected and is not deemed to be disqualified

under the provisions of the Act of 1961 if he has submitted the validity certificate to the competent authority after expiry of such stipulated period but before the publication of the Maharashtra Ordinance No. II of 2019 in the Official Gazette, or if he submits the certificate within three months from the date of publication of the Maharashtra Ordinance No. II of 2019 in the Official Gazette.”

5. Applying the provisions of the said Ordinance and the above quoted judgment of this Court, it becomes clear that the impugned order passed by the Collector is not sustainable in view of subsequent developments, which enure to the benefit of the petitioner.

6. In view of above, writ petition is allowed. The impugned order is quashed and set aside.

JUDGE