

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

Misc. Civil Application No. 349 of 2019 (Review)
in
Writ Petition No. 1003 of 2017 (D)
(Smt. Annapurna Uike Vs. State Through Secretary Dept. of Village
Development & 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.B. Moon, Advocate for applicant.
Mr. V.P. Maldhure, AGP for non-applicants.

CORAM : MANISH PITALE, J.

DATED : JULY 12, 2019

In this review application, review is sought of order passed by this Court upholding the order of disqualification passed against the applicant on account of her failure to submit Caste Validity Certificate within six months of her being declared elected as Member of the Gram Panchayat. This was by operation of Section 10-1A of the Maharashtra Gram Panchayats Act, 1959, which stipulated specific time period of six months to submit caste validity certificates. This Court had dismissed the Writ Petition and held against the applicant on the basis of the aforesaid provision and also the fact that constitutional validity of a *pari materia* provision had been upheld by a Full Bench Judgment of this Court, which was upheld by judgment of the Hon'ble Supreme Court.

2. But, thereafter subsequent developments have taken place showing that the relevant provision stood amended twice, once by amending Act of 2018 and recently, by an Ordinance therein Maharashtra Ordinance No. II of 2019 dated 14/02/2019. Consequently, the amended provision now reads as follows :

“(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 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 Samits (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. The above amended provision clearly shows that the elected members of the Gram Panchayats are now permitted to submit caste validity certificate within three months of the promulgation of the said Ordinance, which means that they could do so till 14/05/2019.

4. The fact that the aforesaid amended provision accrues to the benefit of the applicants is clear from the language used in the said amended provision.

5. The learned counsel for the applicant points out that as per the aforesaid Ordinance three months period would expire on 14/05/2019 and in the present case, the applicant did submit caste validity certificate on 13/05/2019, before the period of three months expired. Along with revision application, a pursis has been filed, placing on record a document to show that the caste validity certificate was indeed submitted by the applicant on 13/05/2019.

6. The learned AGP on the last occasion was asked to verify as to whether the caste validity certificate was indeed submitted by the applicant on 13/05/2019. On telephonic instructions received from Mrs. Gawande, Naib Tahsildar (Election Duty), learned AGP submits that the caste validity certificate was indeed submitted on 13/05/2019. This makes it clear

that the applicant would be entitled to benefit of such Ordinance as the last date for submission of validity certificate was 14/05/2019. It is also apparent from the material on record that no election was held in the meantime for filling up the vacancy.

7. In view of the above, the present revision application is allowed. Consequently, the order dated 28/11/2018, passed by this Court dismissing writ petition of the applicant herein is recalled and the writ petition stands allowed. As a result, the disqualification order passed against the applicant is set aside and she is restored to the status of elected member of Grampanchayat Tekeparr (Dodmazari). Since the applicant was Upsarpancha, when the order of disqualification was passed, as a consequence of disqualification order being set aside, the applicant would be restored to the position of Upsarpancha in the said Grampanchayat.

8. Review application is allowed in above terms.

JUDGE