

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

Misc.Civil Application No.337/2019

IN

Writ Petition No.1001/2017

(Shri Pushkar s/o Ramchandra Kangale Vs. State of Maharashtra and others)

WITH

Misc.Civil Application No.347/2019

in

Writ Petition No.1004/2017

(Smt. Shamlata w/o Krushna Thawre Vs. State of Maharashtra and others)

WITH

Misc.Civil Application No.348/2019

in

Writ Petition No.1002/2017

(Shri Sudhir s/o Ishawar Ambedare Vs. State of Maharashtra and others)

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

Mr. A.B.Moon, Advocate for the applicants.
 Mrs. Swati Kolhe, AGP for respondents.

CORAM : Manish Pitale, J.

DATED : APRIL 26, 2019.

In these Review Applications, review is sought of orders passed by this Court upholding the orders of disqualification passed against the applicants on account of their failure to submit Caste Validity Certificates within six months of their being declared elected as Members of the Gram Panchayats. 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 Petitions and held against the applicants 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.

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 Pancayat 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."

The above amended provision clearly shows that the elected members of the Gram Panchayats are now permitted to submit caste validity certificates within three months of the promulgation of the said Ordinance, which means that they could do so till 14.05.2019.

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.

The learned counsel appearing for the applicants points out that in the present applications for review, all applicants have already submitted their caste validity certificates, although after expiry of the earlier stipulated period of six months and before publication of the aforesaid Ordinance dated 14.02.2019. This makes it clear that the very basis of

the orders of disqualification passed against the applicants and upheld by this Court has been taken away and the applicants are entitled for relief under the above quoted amended provision.

On specific queries made to the learned AGP appearing on behalf of the State Authorities, it is stated that after disqualification of the applicants herein, neither any programme for declaration of holding elections for the vacancies was declared nor any such elections were held. Therefore, the proviso of the above quoted provision would also not come in the way of the applicants herein.

In view of the above, the present Review Applications are allowed. The orders passed by this Court dismissing Writ Petitions of the applicants herein are recalled and the orders of disqualification passed against them stands set aside. As a consequence, the applicants are restored to their status as elected members of the respective Gram Panchayats.

The review applications are allowed in above terms.

JUDGE

ambulkar