

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

WRIT PETITION NO.3438 OF 2019

Ramesh s/o Balaji Buche

... Petitioner

-vs-

The Collector, Chandrapur
And ors.

... Respondents.

Ms Kavita R. Prajapati, Advocate for petitioner.

Shri H. D. Dube, Assistant Government Pleader for respondent Nos.1 and 4.

Shri B. M. Kharkate, Advocate for respondent No.2.

CORAM : A.S.CHANDURKAR, J.

DATE : December 06, 2019

P.C.

Rule. Heard finally considering the short issue involved.

The petitioner has been elected as a Member of the Gram Panchayat from a constituency reserved for Nomadic Tribes. The petitioner claims that he belongs to Dhangar Nomadic Tribe. The respondent No.2 after the election of the petitioner filed proceedings under Section 10(1)(a) of the Maharashtra Village Panchayats Act, 1958 seeking disqualification of the petitioner on the ground that caste validity certificate of the petitioner was not furnished within the stipulated time. By the order dated 05/04/2019 the Collector disqualified the petitioner. That order is challenged in this writ petition.

2. Ms K. R. Prajapati, learned counsel for the petitioner submits that in view of provisions of Maharashtra Ordinance No.II of 2019 which permit submission of a validity certificate within period of three months from publication of said Ordinance, the petitioner is not liable to be disqualified. The petitioner had submitted his caste validity certificate on 30/10/2018. Reliance is also placed on the decision of this Court dated 28/02/2019 in *Writ Petition No.571/2017 (Sau Mangla w/o Pradip Popate vs. State of Maharashtra and anr.)* in that regard. Hence it is submitted that the impugned order is liable to be set aside.

3. Shri B. M. Kharkate, learned counsel for the respondent No.2 submits that when the petitioner was elected he was not having a validity certificate and therefore his election is liable to be set aside. He however, does not dispute issuance of Maharashtra Ordinance No.II of 2019 and its effect.

Shri H. D. Dube, learned Assistant Government Pleader appears for respondent Nos.1 and 4.

4. In the light of the fact that the petitioner has submitted his caste validity certificate on 30/10/2018 as indicated by the document at Annexure-F in the present proceedings and in the light of the provisions of Maharashtra Ordinance No.II of 2019 as considered in *Mangla Pradip Popate* (supra), the impugned order dated 05/04/2019 is liable to be set aside.

5. Accordingly in view of the fact that the petitioner has submitted the validity certificate on 30/10/2018 the writ petition is allowed in terms of prayer clause (ii).

Rule is made absolute in aforesaid terms with no order as to costs.

JUDGE

Asmita