

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

Writ Petition No.5882 of 2017
Sau. Shubhangi w/o Sanjay Dhumne
Versus

State of Maharashtra, through its Secretary, Department of Social Welfare, Mantralaya,
Mumbai, and others.

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

Shri P.D. Sharma, Advocate for Petitioner.
Shri V.A. Thakre, Assistant Government Pleader for Respondent
Nos.1 to 5.
Shri J.M. Gandhi, Advocate for Respondent No.6.

Coram : R.K. Deshpande & Vinay Joshi, JJ.
Dated : 6th February, 2019

The respondent No.6 was elected as a candidate belonging to Other Backward Class (Kunbi) category. She submitted her caste validity certificate dated 8-8-2017 within the stipulated period. This petition seeks a relief that the respondent No.6 be declared as disqualified, as she contested the election on the basis of the false and fraudulent documents and, therefore, the action be taken against her.

On 7-8-2018, we passed an order as under :

“ *In spite of service of notice, the respondent No.6 is not present.*

Issue notice for final disposal of the matter, returnable on 21-9-2018.

It is made clear that if the respondent no.6 fails to appear in this matter, this Court shall proceed to decide the matter on its own merits in absence of respondent No.6.

We also direct the Collector, Wardha to examine the question of disqualification of respondent No.6, if permissible in law, on the ground that in respect of the caste certificate dated 26.10.2016 produced by the petitioner for contesting the election, there is no validity certificate issued by the Committee and the validity certificate issued is in respect of some other caste certificate dated 10.04.2017.”

In response to the aforesaid order, the Collector has examined the issue and passed an order on 21-4-2019, holding that the respondent No.6 cannot be declared as disqualified, as she has produced her caste validity certificate within the stipulated period.

There are disputed questions of fact. We, therefore, do not find any reason to proceed further in the matter, as the fact remains that the respondent No.6 has established her claim for Other Backward Class (Kunbi) category.

The petition is dismissed.

Lanjewar

(Vinay Joshi, J.)

(R.K. Deshpande, J.)