

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

Writ Petition No.5938 of 2016
(Mrs. Papita Vivek Jambhulkar and ors. .vs. State of Maharashtra, through
Additional Collector, Gondia and another)

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

Court's or Judge's orders.

Mr. Shashikant Borkar, Advocate for Petitioners.
Mr. K.L. Dharmadhikari, AGP for Respondent No.1.

CORAM : Manish Pitale, J.
DATED : January 04, 2019.

The petitioners in the present writ petition were elected as Members of the Gram Panchayat Mahagaon, tahsil Arjuni Morgaon, district Gondia, on 22.09.2015. On 30.08.2016, the respondent no.1 passed an order disqualifying all the petitioners from the said elected post under Section 10-1A of the Maharashtra Village Panchayats Act, 1958, on the ground that they had failed to submit caste validity certificates within a period of six months from the date of being elected on the said posts of Members of Gram Panchayat. Since the petitioners were elected from reserved constituencies, under Section 10-1A of the said Act it was mandatory for them to have submitted caste validity certificates within the aforesaid period of six months.

2. While assailing the said order of the respondent no.1, the petitioners had contended that the respondent no.1 violated principles of natural justice by failing to give proper opportunity of hearing to the

petitioners. It was contended that if proper opportunity was granted, the petitioners would have been able to demonstrate that caste validity certificates had been issued in favour of some of them prior to the expiry of the period of six months and this was an aspect that had bearing on the question of their suffering disqualification under Section 10-1A of the said Act.

3. A Full Bench of this Court in the case of **Anant H. Ulahalkar and another .vs. Chief Election Commission and ors.** reported in **2017 (1) Mh.L.J. 431** considered a *pari materia* provision i.e. Section 9A of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965, which also mandatorily requires elected candidates from reserved constituencies to submit caste validity certificates within a period of six months of being declared elected. A Full Bench of this Court upheld the validity of the said provision and it was held that the requirement was mandatory. This judgment of the Full Bench was challenged before the Hon'ble Supreme Court in **Special Leave Petition (Civil) Nos. 29874-75 of 2016** wherein initially the Hon'ble Supreme Court granted stay to the aforesaid Full Bench judgment of this Court. But thereafter on 23.08.2018 the Hon'ble Supreme Court dismissed the the special leave petitions and confirmed the Full Bench judgment of this Court.

4. Since the validity of the identical/*pari materia* provision has been upheld upto the Supreme Court, the petitioners in the present writ petitions cannot contend that the requirement of submitting caste validity certificates within a period of six months under Section

10-1A of the said Act is only directory and not mandatory.

5. The facts of the present case show that the petitioners were declared elected on 22.09.2015 and that they were mandatorily required to submit caste validity certificates on or before 21.03.2016. It is an admitted position that none of the petitioners submitted caste validity certificates within the aforesaid period of six months. Although some of them claimed that caste validity certificates were indeed issued in their favour before the expiry of the said period, but such certificates could not be submitted by them before the respondent no.1 within the aforesaid period of six months. As the petitioners have admittedly failed to adhere to the requirement of Section 10-1A of the said Act and they failed to submit caste validity certificates within six months of being declared elected on 22.09.2015, the present writ petition must fail.

6. Accordingly, the writ petition is dismissed.

JUDGE