

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5311 OF 2017

Balu S/o. Ramdas Chavan,
Age-36 years, Occu-Agril,
Both R/o. Alhanwadi, Tq. Pathardi,
Dist. Ahmednagar

...PETITIONER

VERSUS

1. The State of Maharashtra
Through the Secretary,
Rural Development Department,
Mantralaya, Mumbai-32
2. The Additional Collector,
Ahmednagar
3. The Tahasildar,
Pathardi, Tq. Pathardi,
Dist. Ahmednagar

...RESPONDENTS

Mr. H. U. Dhage, Advocate for the petitioner
Mr. S. D. Ghayal, AGP for the respondent/State

**WITH
WRIT PETITION NO. 5962 OF 2017**

Badamabai W/o. Kundlik More @
Badamabai D/o. Rama Kamble,
Age- 56 years, Occu-Household,
Both R/o. Dongaon, Tq. Jamkhed,
Dist. Ahmednagar

...PETITIONER

VERSUS

1. The State of Maharashtra
Through the Secretary,
Rural Development Department,

...RESPONDENTS

Mantralaya, Mumbai-32

2. The Additional Collector,
Ahmednagar
3. The Tahasildar,
Jamkhed, Tq. Jamkhed,
Dist. Ahmednagar

Mr. H. U. Dhage, Advocate for the petitioner
Mr. S. D. Ghayal, AGP for the respondent/State

**CORAM : Z. A. HAQ &
S. M. GAVHANE, JJ.**

DATED : 28-02-2020

ORAL JUDGMENT : [PER : S. M. GAVHANE, J.]

. Heard learned advocates appearing for the petitioners and learned AGP for the respondents State authorities.

2. Rule. Rule made returnable forthwith.

3. Since order dated 23-12-2016 and order dated 22-12-2016 passed by the Additional Collector, Ahmednagar disqualifying the petitioners from continuing as Members of concerned Gram Panchayats for not submitting the validity certificates of their caste within statutory period given under Section 10-1A of the Maharashtra Village Panchayats Act, 1959 (hereinafter referred to as 'the Village Panchayats Act') are challenged in these petitions, they are being disposed of by this common judgment.

4. Learned advocates appearing for the petitioners have submitted that there is no dispute that the petitioners contested the elections of Member of respective Gram Panchayats in 2015 and as per results of the elections dated 08-08-2015 [which in fact is dated 04-08-2015, as per impugned orders] the petitioners were elected as Members of respective Gram Panchayats on the reserved category seats. Petitioners were required to submit their caste validity certificates as per Section 10-1A of the Village Panchayats Act within six months of their elections. As the petitioners could not submit the caste validity certificates within the statutory period, the petitioners were declared disqualified as per orders dated 23-12-2016 and 22-12-2016 of the Additional Collector, Ahmednagar. Therefore, the petitioners are before this Court.

5. Learned advocates appearing for the petitioners have submitted that immediately after filing the petitions interim relief in terms of prayer clause (C) as per orders dated 19-04-2017 and 02-05-2017 was granted in favour of the petitioners and protection granted to them continues till date.

6. Learned advocates appearing for the petitioners submitted that the petitioners were elected on 04-08-2015 and validity certificate in favour of the petitioner in writ petition No. 5311 of 2017 was issued on 08-07-2016 and validity certificate in favour of the petitioner in writ petition No. 5962 of 2017 was issued on 01-07-2016, and as the said validity certificates were

accordingly submitted by the petitioners within the period given under Section 8(2) of the Maharashtra Act No. LXVI of 2018.

7. According to learned advocates appearing for the petitioners the Government of Maharashtra issued Maharashtra Ordinance No. II of 2019 to amend the Maharashtra Village Panchayats and the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) Act, 2018 on 14-02-2019 in the official gazette. It is submitted that as per Section 4 of the Maharashtra Ordinance No. II of 2019, Sub-Section 2 is introduced in Section 8 of the Maharashtra Act No. LXVI of 2018 and the petitioners get the benefit of said Section 4 of the Maharashtra Ordinance No. II of 2019. Said Sub-Section 2 of Section 8 of the Maharashtra Act No. LXVI of 2018, is as under;

“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 the 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.”

8. Learned Assistant Government Pleader has not been able to counter the submissions made by the learned advocates for the petitioners on the basis of Section 8(2) of the Maharashtra Act No. LXVI of 2018.

9. In the present matters, respective petitioners have got the validity certificates on 08-07-2016 and 01-07-2016 as referred earlier in detail and immediately submitted said certificates to the competent authority. Thereafter, they approached this Court. This Court granted interim relief in favour of the petitioners as per orders dated 19-04-2017 and 02-05-2017 in the petitions. Consequently, the petitioners have continued as the Members of the respective Gram Panchayats. Therefore, it is clear that the petitioners get the benefit of amended sub-section 2 of Section 8 of the Maharashtra Act LXVI of 2018, as they have submitted the caste validity certificates before the publication of Maharashtra Ordinance No. II of 2019 in the Official Gazette. Therefore, they cannot be disqualified for not submitting the validity certificates within the period as was stipulated earlier.

10. As regards the petitioner namely Badamabai W/o. Kundlik More @ Badamabai D/o Rama Kamble in writ petition No. 5962 of 2017, the learned advocate for the petitioner submitted that she has also submitted the caste validity certificate and is

entitled for protection as per the Maharashtra Ordinance No. II of 2019, however, inadvertently instead of Badambai Rama Kamble, her name is typed as Badamabai W/o. Kundlik More @ Badamabai D/o Rama Kamble in the cause title of the petition. It is further submitted that validity certificate of the petitioner is placed on record of the petition at Page No. 12. This document shows that it is in respect of Badambai Rama Kamble. It is submitted on behalf of the petitioner that it is her maiden name. However, no such statement is found in the petition. Hence, we are not inclined to consider the claim of the petitioner namely Badamabai W/o. Kundlik More @ Badamabai D/o Rama Kamble in writ petition No. 5962 of 2017 and grant liberty to the said petitioner to file fresh petition for redressal of her grievance, if so advised.

11. For the reasons aforesaid, the aforementioned petitioners are entitled to reliefs claimed. Hence, the following order is passed.

ORDER

- i] The writ petition No. 5311 of 2017, is allowed.
- ii] Order impugned in the writ petition No. 5311 of 2017, is set aside.
- iii] Rule is made absolute in above terms.

iv] As far as the Writ Petition No. 5962 of 2017 is concerned, we dispose of the said petition with liberty to the petitioner Badamabai W/o. Kundlik More @ Badamabai D/o. Rama Kamble to file fresh writ petition, if so advised. Interim order granted earlier, protecting petitioner shall continue for one month from today.

v] In the circumstances, the parties to bear their own costs.

[S. M. GAVHANE, J.]

[Z. A. HAQ, J.]