

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3588 OF 2019

Shri.Sanjay Gundopant Balwantrao-Koli ..Petitioner
V/s.
Shri.Dattatray Sandipan Koli & Anr. ..Respondents

Mr.M.A. Chandhan for the Petitioner.

Mr.S.S. Shah for Respondent No.1.

Mr.S.D. Rayrikar, AGP for Respondent No.2-State.

CORAM : C.V. BHADANG, J.

DATE : 27th JANUARY 2020

P.C.

1. The challenge in this petition is to the order dated 06th March 2019 passed by the Learned District Collector, Solapur in Dispute application No.13 of 2018. By the impugned order the application filed by the respondent No.1 under Section 30(1A) of the Maharashtra Grampanchayat Act 1958 ('Act' for short) has been allowed and the petitioner has been disqualified from being a member and a Sarpach of Village-Bhatan, Tahasil-Mangalwedha, District-Solapur. The disqualification is on the ground that the petitioner has failed to produce the caste certificate duly validated

by the Caste Scrutiny Committee, within a period of one year from the date of election.

2. The petitioner was elected as a Sarpanch of the said Grampanchayat on 26th December 2017 as a Sarpach, from reserved category i.e. Scheduled Tribe. The petitioner claims to belong to Koli Mahadev Caste. As per the provisions of Section 30(1A), prior to its amendment, the petitioner was required to produce the caste validity certificate within a period of six months.

3. The respondent No.1 approached the Collector under Section 30(1A) of the Act by filing an application on 29th September 2018. It appears that the Act was subsequently amended with effect from 14th December 2018 and the period of six months has now been extended to one year. Be that as it may the petitioner admittedly has not produced the caste certificate duly validated by the Caste Scrutiny Committee within a period of one year on account of which he has been disqualified to be a member and a Sarpanch of the said village panchayat.

4. The learned counsel for the petitioner has pointed out the order passed by the Caste Scrutiny Committee on 21st April 2018

in which the Caste Scrutiny Committee has found that the caste certificate granted by the Tahashildar and the Executive Magistrate, Solapur says that the petitioner belongs to 'Mahadev Koli' caste and not 'Koli Mahadeo' and therefore caste certificate dated 28th February 2002 is not valid. The Caste Scrutiny Committee therefore, "keeping the merits of the matter open", has stated that the petitioner could obtain a fresh certificate from the Competent Authority and can apply afresh before the Committee.

5. It may be mentioned that the order of the Caste Scrutiny Committee has not been challenged by the petitioner any further. Admittedly, the petitioner has applied for grant of certificate afresh by correcting the caste as 'Koli Mahadev' before the Competent Authority on 25th August 2018 and that application is said to be pending before the Competent Authority.

6. The learned counsel for the petitioner strenuously urged that the petitioner has done all that was within his powers to get the caste certificate validated and it was only on account of the technical error in mentioning the caste as 'Mahadev Koli' instead of 'Koli Mahadev' that the petitioner could not get the certificate validated. It is submitted that the petitioner for no fault of his, has been

disqualified. It is pointed out that the validity of the certificate has not been refused on merits, as the Caste Scrutiny Committee has kept the merits of the matter open. The learned counsel also pointed out that the application filed by the respondent No.1 was premature as the period of one year has not elapsed from the date of the election when the application was made and therefore the impugned order may be set aside.

7. Mr.Shah, the learned counsel for respondent No.1 has pointed out that on the date on which the application was made, to the Collector, the period was six months and therefore the application could not be said to be premature. All though the learned counsel for respondent No.1 did not dispute that the provisions of Section 30(1A) have been amended on 14th December 2016, with retrospective effect and therefore the date on which the Collector considered the application the period was one year, he points out that the fact remains that the petitioner has failed to produce caste validity certificate even within the period of one year. On behalf of the respondent No.1 reliance is placed on the full Bench decision of this Court in the case of **Anant H. Ulahalkar & Anr. V/s. Chief Election Commissioner & Ors.**¹, in order to submit

1 2017(1) Bom. C.R. 230

that the provisions requiring production of the caste validity certificate, within the period as prescribed, are mandatory. He therefore submits that no case for interference, in the impugned order, is made out.

8. I have carefully considered the rival circumstances and the submissions made.

9. It is not in dispute that on the date on which the respondent No.1 filed the application for disqualification i.e. on 29th September 2018 the period for production of the caste validity certificate, was six months from the date of the election. Thus the date on which the application was filed, it could not be said to be premature. The amendment of the year 2018, came during the pendency of the said application i.e. on 14th December 2018 with retrospective effect from 31st March 2016 and therefore the Collector was required to consider the application as per the amended provisions. Thus, even taking the period within which the petitioner was required to produce caste validity certificate, as one year, the fact remains that the petitioner has been unable to produce the caste validity certificate within the said period. Similar, provisions under the Maharashtra Municipal Councils,

Nagar Panchayats and Industrial Township Act, 1965 have been held to be mandatory by the full Bench of this Court in the case of *Anant H. Ulahalkar & Anr. (Supra)*. The reason on account of which the petitioner was unable to produce the caste validity certificate, in my considered view, cannot be gone into in this petition. It is necessary to note that the petitioner has not challenged the order dated 21st April 2018 passed by the Caste Scrutiny Committee refusing to grant validity certificate. In that view of the matter I do not find any exception can be taken to the impugned order disqualifying the petitioner. The petition is without any merit and it is accordingly dismissed, with no order as to costs.

C.V. BHADANG, J.

Nilam
Kamble

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by Nilam Kamble
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