

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

WRIT PETITION NO.381/2020

Sau. Sangita Aurn Tayade

..V/s..

Divisional Commissioner, Amravati Division, Amravati and others

AND WRIT PETITION NO.382/2020

Sau. Panchafula Mukinda Tayade

..V/s..

Divisional Commissioner, Amravati Division, Amravati and others

AND WRIT PETITION NO.383/2020

Sau. Chandrakala Suryabhan Ingle

..V/s..

Divisional Commissioner, Amravati Division, Amravati and others

AND WRIT PETITION NO.384/2020

Sau. Rekhabai Shrikrushna Gaikwad

..V/s..

Divisional Commissioner, Amravati Division, Amravati and others

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

Court's or Judge's orders

Shri N.A. Gawande, Advocate for the petitioners.
Ms M.A. Barabde, A.G.P. for respondent Nos.1 to 3.

CORAM : RAVINDRA V. GHUGE, J.

DATED : 20.1.2020.

1] The petitioners desire to delete the B.D.O. - respondent No.4 as he is not concerned with the cause of action. Deletion to be carried out forthwith.

2] I have heard the learned Advocate for the petitioners and the learned A.G.P. on behalf of respondent Nos.1 to 3.

3] The issue before this Court is as regards the disqualification having been incurred by these petitioners under Section 10-1A of the Maharashtra Village Panchayats Act, 1958. These petitioners were elected against the posts which were reserved for specific categories. Each of them, were elected on 9.10.2017 to the village Panchayat Samsherpur, Jalalabad, Pardi and Dhotra Shinde, respectively. Each one of them tendered an affidavit along with their nomination forms declaring that they are contesting the elections as per their maiden name and after their marriage, the names have changed. They have contested the elections on the basis of their marital names.

4] The petitioners were disqualified by the order passed by the District Collector concluding that they have failed to tender their caste validity certificates within the prescribed time under Section 10-1A.

5] It is categorically pleaded in the petition on oath that each of these candidates have been granted validity certificates and these certificates have been tendered to the competent Authorities, except in Writ Petition No.381/2020 wherein the revenue authorities submit that they did not receive the caste validity certificate from the petitioner Sou. Sangita Arun Tayade and in Writ Petition No.384/2020, from Sou. Rekhabai Shrikrushna Gaikwad.

6] The learned A.G.P. has strenuously opposed these petitions and submits that no interference is called for in the orders passed by the District Collector and the Divisional Commissioner. The petitioners should have established before these Authorities that they were earlier known by their maiden names and pursuant to their marriage, they were known by their marital names. They should have established that such two names are not with regard to 2 different persons, but the same person who is known by the marital name and is contesting the elections on the marital name.

7] The learned Advocate for the petitioners submits that the issue as to whether the elected candidates are different than those candidates who were known by their marital name, was never a subject matter of challenge before the Collector, much less the Divisional Commissioner. Each of these candidates have tendered their affidavit along with their nomination forms declaring that their maiden name was different from their marital name and after marriage, they were known by the names which are set out in the cause title of these petitions.

8] I find that the law as regards disqualification on the ground of failure in submitting the caste / tribe certificate within 6 months from the date of elections, was sustained in the judgment delivered by the learned

Division Bench of this Court in the matter of *Anant H.Ulahalkar Vs. Chief Election Commissioner* [**2017(1) Mh.L.J.FB431**]. Section 9A of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 was at issue. Section 10-1A of the Maharashtra Village Panchayats Act is identical to Section 9A which was at issue in *Anant H.Ulahalkar Vs. Chief Election Commissioner* (supra). The matter was carried to the Hon'ble Apex Court and in the judgment delivered in the case of *Shankar S/o Raghunath Devre (Patil) V/s. State of Maharashtra and others* [(**2019**) **3 SCC 220**], it was held by the Hon'ble Apex Court that Section 9A has a mandatory force and, as such, those provisions under various Acts which require submission of caste / tribe validity certificates, will have to be mandatorily complied with.

9] The State of Maharashtra introduced an amendment in these Acts and enlarged the period of 6 months to 12 months for submissions of such validity certificates. Subsequently, the State of Maharashtra introduced the Ordinance XXI dated 11.10.2018 by which permission was granted to candidates whose election occurred after 31.3.2016 and enabled them to submit their validity certificates. Maharashtra Ordinance No.II dated 14.2.2019 was then introduced extending the period up to 14.5.2019.

10] Considering the above, it is obvious that when

the proceedings were conducted by the District Collector in which the order disqualifying these petitioners was passed on 14.8.2019, these petitioners were protected as the period was extended from time to time by the State Government. When the Divisional Commissioner, dealt with the matters on 21.12.2019, there were clearly protection in view of the Ordinance dated 11.10.2019.

11] All these petitioners have been elected by carrying their marital names and they had tendered affidavits along with their nomination forms declaring their identity in their maiden names, as well as, in their marital names. In these backdrop, an elected candidate should not be casually ousted on the basis of conjectures and surmises. If the Divisional Commissioner had any doubt about these 4 petitioners being actually 8 ladies, he could have called upon each of them to tender further details and could have also considered their nomination forms which were accompanied with their affidavits.

12] Considering the above, these petitions are **allowed**. The impugned orders passed by the District Collector and the Divisional Commissioner, are quashed and set aside.

(RAVINDRA V. GHUGE, J.)