

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

901 WRIT PETITION NO.11 OF 2021

Pooja w/o Dattatraya Mamadge,
Age 25 years, Occ. Agriculture,
R/o. Kavha, Tq. And Dist. Latur.

VERSUS.

- 1) Maharashtra State Election Commission,
Through Chief Election Commissioner,
Mumbai-32.
- 2) The Returning Officer,
Elections of Grampanchayat, Kavha,
Tq. And dist. Latur.
- 3) Gopal Babu Wange,
Age 30 years, Occ. Agril.
R/o. Kavha, Dist. Latur.

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Advocate for Petitioner : Mr. Deshmukh Sachin S.
AGP for Respondent No. 1 : Mr. S.B. Pulkundwar.
Advocate for Respondent No. 2 : Mr. A. B. Kadethankar
Advocate for Respondent No. 3 : Mr. B.R. Kedar.

CORAM : MANGESH S. PATIL, J.
DATE : 04.01.2021.

ORAL JUDGMENT :

Heard. Rule. The Rule is made returnable forthwith. With the consent of both the sides the matter is heard finally at the stage of admission.

2. The petitioner filed nomination form for election of the Grampanchayat under the Maharashtra Village Panchayat Act 1959 and Village Panchayat Election Rules.

3. The candidature of the petitioner has been rejected by the Returning Officer by his order dated 31.12.2020 on the ground that she had failed to submit a proposal for validation of the caste certificate within six months next before filing of the nomination.
4. The law does not mandate filing of such proposal within six months next before nomination. As can be seen from Section 10(1A) of the Maharashtra Village Panchayat Act, 1959 the only requirement is regarding pendency of such proposal before the concerned Scrutiny Committee.
5. On instructions, the learned A.G.P informs that in the year 2017 itself the petitioner has been granted caste validity certificate.
6. In view of such fact situation, the ground on the basis of which the nomination has been rejected by the Returning Officer is de hors the provisions of law and is liable to be quashed and set aside.
7. The Writ Petition is allowed. Impugned order of the Returning Officer is quashed and set aside and the petitioner's nomination, if otherwise valid should be accepted.
8. Learned A.G.P and learned advocate Mr. Kadethankar for the Election Commission shall immediately intimate the Returning Officer about this decision. Simultaneously, even the petitioner shall file an affidavit to that effect before the Returning Officer. Returning Officer shall adopt further course.
9. The Returning Officer shall proceed to act on the basis of the affidavit to be tendered by the petitioner.
10. The Rule is accordingly made absolute in above terms.

(MANGESH S. PATIL, J.)

mkd/-