

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

WRIT PETITION NO.3184 OF 2021

1. Chandrakala w/o Sopan More,
@ Alka Kachru Mali,
Age : 40 years, Occu : Household
2. Sachin s/o Bhaskarrao Murkute,
Age : 43 years, Occu : Agri.,

Both R/o Kamalpur, Tq. Shrirampur,
Dist. Ahmednagar.

... **PETITIONERS**

VERSUS

1. The State of Maharashtra
through its Secretary,
Rural Development Department,
Mantralaya, Mumbai-32
2. The Divisional Commissioner,
Nashik Division, Nashik
3. The Collector,
Ahmednagar.
4. The Tahsildar,
Shrirampur, Tq. Shrirampur,
Dist. Ahmednagar.
5. The Secretary/Gram Sevak
Gram Panchayat, Kamalpur,
Tq. Shrirampur, Dist. Ahmednagar
6. The State Election Commission,
State of Maharashtra, Mumbai.

... **RESPONDENTS**

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Advocate for Petitioners : Mr. Rahul R. Karpe
AGP for Respondents/State : Mr. PN. Kutti
Advocate for Respondent No.6 : Mr. A.B. Kadethankar

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CORAM : MANGESH S. PATIL, J.

DATE : 30.11.2021

Per Court :

Heard learned advocate for the petitioners, learned AGP and the
learned advocate Mr. Kadethankar who appears for the respondent No.6

State Election Commission. The petitioners are aggrieved by the order passed by the Collector holding them to have incurred disqualification for not producing the Caste Validity Certificate, as contemplated under Section 10 (1-A) of the Maharashtra Village Panchayat Act, 1958.

2. Though a statement is made at the bar by the learned AGP and the learned advocate Mr. Kadethankar that already a fresh process of by election has been initiated, at the request of the learned advocate for the petitioners, the petition is being considered only to the limited extent that in spite of having produced caste validity certificate the petitioners should not suffer any blot or blame which could have a bearing on their future prospects. It is only to this limited extent that I have heard the parties.

3. It is the stand of the petitioners that as far as petitioner No.1 is concerned she was armed with a caste validity certificate but it was in her maiden name. So far as the petitioner No.2 is concerned he lost his caste validity certificate about which he had lodged a police complaint. These facts could not be brought before the Collector since he had issued the notice to appear before him collectively for number of persons that too during the lock down period. The petitioners could not avail of the opportunity to establish the aforementioned facts by going before the Collector.

4. It does appear that the notices to appear before the Collector were issued by him during the lock down period. Apparently the Collector has under taken collective exercise in respect of several such similarly placed

candidates and has passed a common order holding them to have incurred disqualification under Section 10 (1-A).

5. Considering the aforementioned state of affair, when the petitioners are specifically asserting that they do possess caste validity certificates, only to the limited extent, in my considered view, they deserve to be relegated before the Collector who can conduct necessary inquiry by extending opportunity of being heard to the petitioners and take appropriate decision afresh on their disqualification or otherwise, under Section 10(1-A).

6. Needless to state that all these facts and circumstances are clearly pure questions of fact which will have to be established before the Collector and considered by him. No inquiry in that respect can be held in this proceeding while exercising the writ jurisdiction.

7. The Writ Petition is partly allowed. The impugned order is quashed and set aside to the extent of petitioners. The Collector shall now give them an opportunity of being heard and to produce the documents and shall take appropriate decision afresh. It is made clear that the decision to be rendered shall not have any bearing on the present by-elections which are already underway. The Collector shall take such decision as early as possible and in any event within a period of four weeks.

(MANGESH S. PATIL, J.)