

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

**WRIT PETITION NO.5431 OF 2021**

**MANISHA MANOJ MANDALIK  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

...  
Advocate for Petitioners : Mr. Dhorde Vikram R.  
AGP for Respondent/State: Mr. P.K. Lakhotiya  
...

**CORAM : S. V. GANGAPURWALA AND  
SHRIKANT D. KULKARNI, JJ.**

**DATE : 30/03/2021**

**PER COURT :**

1. We have heard Mr. Dhorde the learned counsel for the petitioner.
2. The grievance of the petitioner is that the respondent No.5 contested the Election for the post of Member of the Gram Panchayat from General Category (Women Category). The post of Sarpanch was reserved for OBC. The respondent No.5 contested the Election to the post of Sarpanch as OBC. The school record of respondent No.5 shows that she does not belong to OBC. The respondent No.5 had also given the declaration at the time of filling of the form for the post of Member of the Gram Panchayat that she does not belong to reserve category. In view of that the Election of respondent No.5 for the post of Sarpanch be set aside. The learned counsel in alternate submits that the validation proceedings of

respondent No.5 be directed to decide within two months.

3. The Caste Certificate is issued to respondent No.5 by competent authority. The said certificate is required to be verified by the Scrutiny Committee as per the law. Even as per the Provision of Section 10 (1) (a) if the Validity Certificate is not submitted within one year, the Election of a person from a particular category stands cancelled.

4. It is trite position of law that a person though elected from general category as a Member of the Gram Panchayat can contest for the post of Sarpanch from a reserved category if that person belongs to reserved category. The validation proceeding is pending with the Scrutiny Committee naturally everything shall depend upon the judgment that would be delivered by the Scrutiny Committee in the validation proceeding for respondent No.5. The Scrutiny Committee certainly would consider all the relevant aspect of the matter at the time of deciding the validation proceeding.

5. In light of the above, the writ petition is disposed of. No costs.

( SHRIKANT D. KULKARNI, J. )

( S. V. GANGAPURWALA, J.)

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