

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

**REVIEW APPLICATION (CIVIL) NO. 97 OF 2022
IN WP/14824/2021**

Fakira Devram Sansare

.. Applicant

Versus

The Collector, Ahmednagar and others

.. Respondents

Mr. Sandip R. Andhale, Advocate for the Applicant.

Mr. S. B. Pulkundwar, AGP for Respondent Nos. 1 and 2.

CORAM : KISHORE C. SANT, J.

DATED : 20th JULY, 2023.

P C. :-

. Heard learned advocate for the applicant.

2. This application is filed seeking review of the order passed by this Court dated 02.02.2022 in Writ Petition No. 14824/2021. The applicant herein was elected as a member to Grampanchayat Kanadgaon Taluka Rahuri, District Ahmednagar. He was directly elected as Sarpanch in election that took place on 10.01.2020. The post of Sarpanch was reserved for a person belonging to reserved category. In view of Section 10-A of the Maharashtra Village Panchayat Act, the applicant was required to submit the validity certificate within a period of one year from the date of election i.e. before 10.01.2021.

The applicant could not submit the caste validity certificate within that period. His validity certificate came to be issued later on. The applicant therefore was declared as disqualified by the Collector. The petitioner therefore had approached this Court praying for quashing and setting aside the order declaring him as disqualified on the ground of non submission of caste validity certificate. One of the arguments of the applicant was that there was Covid-19 pandemic that started in March-April 2020. Most of the time lock-downs were declared by the Central Government as well as the State Government. It is for this reason the activities had come to stand still. The work of the Government offices was also hampered and it is for this reason he could not get the validity certificate in time. No fault can be attributed to the applicant. This Court by judgment and order dated 02.02.2022 considered this submission in detail and discussed the same elaborately. The applicant had also relied upon the order passed by the Hon'ble Apex Court in *Suo Motu Writ Petition (C) No. 3/2020* in respect of cognizance for extension of limitation. The submission of the applicant was that, if the Hon'ble Apex Court had extended the limitation in the orders passed by the judicial and quasi judicial authorities, the same principle should have been made applicable even to other proceedings including working of scrutiny committee dealing with the validity of the certificate. This Court considered that aspect in its judgment while

passing the judgment.

3. The applicant thereafter filed this review application in March 2022 by seeking reliance upon the judgment passed by this Court at Nagpur Bench in the case of Kalmati Ramkrupal Yadav Vs. Chandrapur City Municipal Corporation reported in 2021 (6) Mh.L.J. 651. In that case, this Court at Nagpur Bench, in the facts of the case held that, because of the circumstances created by Covid-19 crisis, affected the entire globe and human at large. By considering the judgment/order passed by the Hon'ble Apex Court in Suo Motu Writ Petition (C) No. 3/2020 this Court held that, the said principle can be applied even to the proceedings before the caste scrutiny committee. In that case, the benefit was given of extension of limitation even for the purpose of submitting caste validity certificates.

4. This Court by order dated 29.03.2022 has discussed this judgment also. The judgment in the case of Kalmati Ramkrupal Yadav (supra) and also the application was kept on the next date specifically under the caption "for withdrawal/dismissal". However, thereafter on 30.03.2022, the applicant again tendered two judgments on the point of maintainability of review application and therefore, the matter was adjourned for consideration.

5. Learned advocate for the applicant relied upon the following judgments.

(i) Zarir Rustom Joshi and others Vs. Burzor Rustom Joshi and others reported in 2007 (2) Bom.C.R. 610.

(ii) Jadab Chandra Pradhan Vs. Kausalya Pradhan reported in 1975 Cr.L.J. 856.

(iii) Manubhai Paragji Vashi Vs. Bar Council of Maharashtra and Goa and others reported in 2007 (3) Bom.C.R. 277.

(iv) Medical Council of India Vs. Christian Medical College Vellore and others reported in 2016 (4) SCC 342.

(v) Shyamsundar Daulatram Bhambhwani Vs. Lokesh Chandra and others reported in 2011 (2) Mh.L.J. 432.

6. In the case of Zarir Rustom Joshi and others (supra), it is held that, the review would be maintainable on discovery of new and important evidence which was not within the knowledge of the applicant and therefore he could not give at the time of order despite of exercise of due diligence, if the case is made out that in respect of the revision the applicant could not get the knowledge. In this case, this Court finds that, no such case is made out. Subsequent judgment passed by different view can be said to be a discovery of material which was not within knowledge in spite of diligence.

7. In the case of **Jadab Chandra Pradhan** (supra), the Orissa High Court has held that, the review would be maintainable. This Court finds that, it is of no use to the applicant.

8. So far as judgment in the case of **Manubhai Paragji Vashi** (supra) is concerned, this Court has held that, Division Bench have to state point on which they are not able to agree and therefore, it is not applicable. So far as case of **Medical Council of India** (supra) is concerned, this Court finds that, it is not specifically on the ground of maintainability of review. In that case the Hon'ble Apex Court has held that, the judgment delivered in the case **Christian Medical College Vellore Vs. Union of India and others** was required to be re-considered by the Hon'ble Apex Court and in that view the review was entertained. It appears that, it was only in the case where the Hon'ble Apex Court held that earlier judgments needs re-consideration and therefore, review was entertained.

9. In the case of **Shyamsundar Daulatram Bhambhawani** (supra), the Division Bench of this Court at Nagpur Bench has held that, the Court has the inherent power to correct its record. The term "records" imply the power of Courts to correct the errors on judicial side, in order to maintain majesty of the law. It was on the aspect as the call of review is available to the Court beyond Section 114 of the Code of Civil

Procedure r/w Order 47 of the Code of Civil Procedure. The reference was answered that in exercise of powers to punish the contemnor by virtue of Section 215 of the Constitution of India, notwithstanding the provision of Contempt of Court Act, 1971, the High Court has jurisdiction to review its own order. Thus, it was a case where the Court had answered the issue as to whether the Court has power to correct its own record and answer is positive. There is no doubt that the Court certainly has the power to review. However, it is necessary to make out the case to show that, a case is made out to review the judgment.

10. This Court finds that in the judgment dated 02.02.2022, the Court has considered all the points involved in the matter and the submissions made by the learned advocate. There is no case made out that, the Court has committed any error on the face of record. The applicant subsequently found that this Court at Nagpur Bench has passed the order in the case of Kalmati Ramkrupal Yadav (supra). It has taken somewhat different view than the view taken by this Court in the judgment dated 02.02.2022. This Court finds that, this can be said to be an error apparent on the face of record.

11. By considering all above aspects this Court finds that, no case is made out to entertain this review application. The review application therefore stands dismissed.

(KISHORE C. SANT, J.)

PS.B.