

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

55 WRIT PETITION NO.6593 OF 2023

VANDANA SURESH GAWALI ALIAS VANDANA BABURAO BHOTKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

Mr.D.D.Choudhari, Advocate for the Petitioner.
Mr.S.G.Karlekar, AGP for the Respondent/State.

(CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.)

DATE : JUNE 19, 2023

PER COURT :

1. The Petitioner has put forth prayer clauses A, B and C as under :-

[A] The Hon'ble High Court may be pleased to issue appropriate writ, order or direction in the nature of writ and thereby quashed and set aside the impugned order dated 12.05.2023 passed by the respondent No.3.

[B] The Hon'ble High Court may be pleased to issue appropriate writ, order or direction in the nature of writ and thereby direct the Respondent No.2 to decide the tribe claim of the petitioner forthwith.

[C] Pending hearing and final disposal of the present writ petition, the effect, operation and implementation of the impugned order dated 12.05.2023 passed by the respondent No.3 may kindly be stayed."

2. The learned Advocate for the Petitioner has canvassed the grounds raised in this petition, vehemently and at length. His argument is that it is not within the control of the Petitioner to get her claim of belonging to the "Koli Malhar" ST category, validated by the Committee within a particular time-frame. The six grounds canvassed by the Petitioner are set out on page Nos. 7 and 8 of the petition.

3. The Petitioner tendered her proposal for validation on 29.12.2020, which was just prior to the elections. She contested the elections to the Gram Panchayat Sheri, Tal.Jamner, Dist.Jalgaon and was elected as a Member on 29.01.2021. Thereafter, she became a Sarpanch. It is an admitted position that she has tendered an affidavit undertaking while filling in her nomination form that she would tender her validity certificate within 6 months from the date of her election. It is now of 2 years and 5 months post her election.

4. The learned AGP rightly points out the Law laid down by the learned Full Bench of this Court in **Anant H.Ulahalkar Vs. Chief Election Commissioner** [2017(1) Mh.L.J. (FB) 431]. The said judgment, alongwith similar orders of this Court, was carried to the

Hon'ble Supreme Court. The issue was dealt with by the Hon'ble Supreme Court vide order dated 23.08.2018 in **Shankar Raghunath Devre (Patil) Vs. State of Maharashtra and others [SLP (C) No.29967/2016 and other connected matters dated 23/08/2018]**. The questions referred to the Full Bench and the conclusions drawn in Anant Ulahalkar (supra), were sustained by the Hon'ble Supreme Court and it was concluded that the High Court of Bombay was perfectly justified in coming to the impugned conclusion on the basis of the reasoning that was adopted, which were affirmed by the Hon'ble Supreme Court.

5. In view of the above legal position, this petition fails to the extent of the request for quashing the order of disqualification dated 12.05.2023.

6. In the alternative, the learned Advocate for the Petitioner prays on instructions that her pending claim may be decided by the Competent Committee at Aurangabad, expeditiously.

7. The learned AGP submits that priority is being given to the students who desire admission to the professional courses and their matters have to be decided within a specific timeline. This case would be decided on

or before 31.12.2023.

8. In view of the above, **this petition is disposed off** with the expectation that the Committee would decide the claim of the Petitioner on or before 31.12.2023, provided the Petitioner wholeheartedly co-operates in the hearing and does not seek adjournments on unreasonable or trivial grounds.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)