

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

WRIT PETITION NO. 6474 OF 2023

Mukta Navnath Gite and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri S. S. Thombre, Advocate for the Petitioners.

Shri S. B. Yawalkar, A.G.P. for the Respondent Nos. 1 to 3.

WITH

WRIT PETITION NO. 6623 OF 2023

Sangeeta Sukhdeo Jaibahar

(Kusum Sandu Borde)

.. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri S. S. Thombre, Advocate for the Petitioner.

Shri S. B. Yawalkar, A.G.P. for the Respondent Nos. 1 to 3.

WITH

WRIT PETITION NO. 6626 OF 2023

Tarabai Vishwanath Jadhav

(Tarabai Shivnarayan Gaikwad)

.. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri S. S. Thombre, Advocate for the Petitioner.

Shri S. B. Yawalkar, A.G.P. for the Respondent Nos. 1 to 3.

WITH

WRIT PETITION NO. 6583 OF 2023

Lata Kailas Dhakne

(Lata Namdev Gite)

.. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri S. S. Thombre, Advocate for the Petitioner.
Shri S. B. Yawalkar, A.G.P. for the Respondent Nos. 1 to 3.

WITH
WRIT PETITION NO. 6619 OF 2023

Kiskinda Ramrao Morale .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri S. S. Thombre, Advocate for the Petitioner.
Shri S. B. Yawalkar, A.G.P. for the Respondent Nos. 1 to 3.

WITH
WRIT PETITION NO. 6620 OF 2023

Parwati Ramkaran Khade
@ Parwati Raosaheb Munde .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri S. S. Thombre, Advocate for the Petitioner.
Shri S. B. Yawalkar, A.G.P. for the Respondent Nos. 1 to 3.

WITH
WRIT PETITION NO. 6624 OF 2023

Lahanubai Ramdas Sonawane .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Shaikh Tarek Mobin H. Advocate for the Petitioner.
Shri S. B. Yawalkar, A.G.P. for the Respondent Nos. 1 to 3.

WITH
WRIT PETITION NO. 6625 OF 2023

Manisha Ganesh Dighule

(Manisha Vishnu Gite) .. Petitioner
Versus
 The State of Maharashtra and others .. Respondents

Shri S. S. Thombre, Advocate for the Petitioner.
 Shri S. B. Yawalkar, A.G.P. for the Respondent Nos. 1 to 3.

**WITH
 WRIT PETITION NO. 6627 OF 2023**

Vandana Ram Deshmukh @
 Vandana Pandurang Sonwane .. Petitioner
Versus
 The State of Maharashtra and others .. Respondents

Shri S. S. Thombre, Advocate for the Petitioner.
 Shri S. B. Yawalkar, A.G.P. for the Respondent Nos. 1 to 3.

**WITH
 WRIT PETITION NO. 6738 OF 2023**

Angad Vinayak Munde and others .. Petitioners
Versus
 The State of Maharashtra and others .. Respondents

Shri P. P. More, Advocate for the Petitioners.
 Shri S. B. Yawalkar, A.G.P. for the Respondent Nos. 1 to 3.

**CORAM : RAVINDRA V. GHUGE AND
 Y. G. KHOBRADE, JJ.
 DATE : 21ST JUNE, 2023.**

PER COURT :

1. All these Petitioners, who are elected members of the village gram panchayat, have been disqualified under Section 10(1A) of the Maharashtra Village Panchayat Act, 1958 (for short "Panchayat Act") for having failed in submitting their validity

certificates within the timeline prescribed.

2. There are three types of cases before us. The identical feature is that all these petitioners have been elected as Gram Panchayat members, some of them have become Sarpanch subsequently, who have contested elections on the seats reserved for the backward classes. Each of them claims to be belonging to a particular backward class and, therefore, eligible for reservation.

3. Each of them have complied with the necessity of tendering documentary evidence of having referred their claims for validation to the appropriate Committees.

4. Section 10(1A) of the Maharashtra Village Panchayat Act reads as under :

"10-1A. Person contesting election for reserved seat to submit Caste Certificate and Validity Certificate

Every person desirous of contesting election to a seat reserved for Scheduled Castes, Scheduled Tribes or, as the case may be, Backward Class of Citizens, shall be required to submit, along with the nomination paper, Caste Certificate issued by the Competent Authority and the Validity Certificate issued by the Scrutiny Committee in accordance with the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000:]

Provided that, for the General or bye-elections for which the last date of filing of nomination falls on or before the 31st December 2022, in accordance with the election programme declared by the State Election Commission, a

person who has applied to the Scrutiny Committee for verification of his, Caste Certificate before the date of filing of the nomination papers but who has not received the Validity Certificate on the date of filing of the nomination papers shall submit, along with the nomination papers, --

(i) a true copy of the application preferred by him to the Scrutiny Committee for issuance of the Validity Certificate or any other proof of having made such application to the Scrutiny Committee; and

(ii) an undertaking that he shall submit, within a period of twelve months from the date on which he is declared elected, the Validity Certificate issued by the Scrutiny Committee:

Provided further that, if such person fails to produce the Validity Certificate within a period of twelve months from the date on which he is declared elected, his election shall be deemed to have been terminated retrospectively and he shall be disqualified for being a member."

5. There is no dispute that the elections were held in January 2021 and the result was declared on 17.01.2021. It is equally undisputed that the State Government has extended the period of twelve months as found in Clause (ii) below the first proviso under Section 10(1A) of the Panchayat Act, on the ground of the Covid pandemic, by issuing an ordinance. Now, there is no dispute that the maximum period for submitting the validity certificates after the elections were held on 17.01.2021, is upto 16.01.2023.

6. In view of the above there are three types of cases before us as under :

(a) A candidate who did not receive the validity certificate till

disqualification.

(b) A candidate who received the validity certificate prior to disqualification/prior to 17.01.2023, but failed in tendering it before the cut off date which is 17.01.2023.

(c) Candidates who acquired validity certificates prior to the cut off date and have also tendered those certificates before the cut off date and yet have been disqualified.

7. In so far as the candidates falling under clauses (a) and (b) above are concerned, the learned advocate for Petitioners submit on instructions that the Petitioners desire to withdraw the following writ petitions as they intend to avail of any other statutory remedy:-

- (i) Writ Petition No. 6583 of 2023.
- (ii) Writ Petition No. 6619 of 2023.
- (iii) Writ Petition No. 6620 of 2023.
- (iv) Writ Petition No. 6624 of 2023.
- (v) Writ Petition No. 6625 of 2023.
- (vi) Writ Petition No. 6627 of 2023.
- (vii) Writ Petition No. 6738 of 2023.

8. In view of the above, **these petitions at Sr. No. (i) to (vii) above, are disposed off as withdrawn.**

9. In so far as Clause (c) is concerned, we have noted the law laid down by the learned Full Bench of this Court in **Anant H.**

Ulahalkar Vs. Chief Election Commissioner and others, 2017(1) Mh.L.J. 431. This judgment was carried to the Hon'ble Supreme Court along with several similar such orders and the law was laid down by the Hon'ble Supreme Court in **Shankar Raghunath Devre (Patil) Vs. State of Maharashtra, (2019) 3 SCC 220.** A judgment delivered by the learned Single Judge Bench of this Court in **Vishwanath Gahininath Thore Vs. Collector/Additional Collector, Ahmednagar and others** reported in **2019(1) Mh.L.J. 721** has also been cited. It is thus apparent that Section 10(1A) of the Panchayat Act is to be complied with mandatorily. The issue is crystallized by the Hon'ble Supreme Court in **Shankar Raghunath Devre (Patil)** (supra).

10. In view of the above, the petitioners namely Mukta Nagnath Gite, Swati Ravindra Kanade, Vinod Fakira Ghaytalak (Writ Petition No. 6474 of 2023), Sangita Sukhdeo Jaibahar (Kusum Sandu Borde) (Writ Petition No. 6623 of 2023) and Tarabai Vishwanath Jadhav (Tarabai Shivnarayan Gaikwad) (Writ Petition No. 6626 of 2023, have admittedly received their validity certificates prior to the cut off date and they have also tendered it prior to said date. For ready reference we are reproducing details of these candidates as under :

Sr. No.	Name of the Petitioner	Date receiving validity certificate	of	Date tendering validity certificate	of
01.	Mukta Nagnath Gite	29.04.2021		30.09.2022	

02.	Swati Ravindra Kanade	19.07.2021	08.02.2022
03.	Vinod Fakirchand Gaytadak	22.09.2021	08.02.2022
04.	Sangita Sukhdeo Jaibahar	28.09.2021	30.03.2022
05.	Tarabbai Vishwanth Jadhav	27.07.2021	18.08.2021

11. Apparently in the above cases, the competent authority has failed to notice the above factors. In view thereof, the impugned orders in cases of these above referred Petitioners mentioned in the table, stand quashed and set aside. Their disqualification, therefore, would not continue. **These writ petitions are accordingly allowed.**

[Y. G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]

bsb/June 23