

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

WRIT PETITION NO. 7129 OF 2023

Kushawarta w/o. Vishnu Shinde @ .. Petitioner
Kushawarta d/o Vaman Gaikwad,
Age. 74 years, Occ. Household,
R/o. Moha, Tq. Parli-Vai, Dist. Beed.

Versus

1. The State of Maharashtra .. Respondents
Through its Secretary,
Rural Development, Mantralaya,
Mumbai – 32.
2. The Election Commissioner,
Maharashtra State,
Mumbai
Through its Secretary.
3. The District Collector,
Collector Office, Beed,
Tq. & Dist. Beed.
4. The Tahasildar,
Parli-Vai, Tq. Parli-Vai, Dist. Beed.
5. The Block Development Officer,
Panchayat Samittee, Parli-Vai,
Tq. Parli-Vai, Dist. Beed.
6. The Gram-Panchayat, Moha,
Tq. Parli-Vai, Dist. Beed.
Through its Gram-sevak.

Mr.G.V. Mohekar, Advocate for the petitioner.
Mr.S.B. Pulkundwar, AGP for respondent/State.
Mr.A.B. Kadethankar, Advocate for respondent No.5.

CORAM : KISHORE C. SANT, J.
DATED : 19.07.2023

PC :-

01. Heard learned Advocates for the parties.

02. The challenge in this petition is to an order passed by the Collector, Beed dated 15.06.2023 declaring the petitioner as disqualified under section 10-A of the Maharashtra Village Panchayats Act to hold the post of Member of Grampanchayat, Moha, Tal. Parali.

03. The case of the petitioner is that she had received Caste Validity Certificate from the Scrutiny Committee on 14.01.2022. The petitioner had submitted the certificate to the Tahsildar on 27.01.2022 as well as to the Block Development Officer. On the same, there are endorsements of both the Officers. The learned Collector has not applied its mind and has not bothered to call for report from the Tahsildar and the Block Development Officer. Though the petitioner had submitted Caste Validity Certificate within

time, for the failure on the part of the Authorities, the Collector has passed the impugned order. The petitioner need not suffer for the delay on the part of the Tahsildar and the Block Development Officer in sending the certificate to the Collector or to point it out to the Collector. The learned Collector has also not given opportunity of hearing and therefore the order deserves to be set aside.

04. The learned AGP submits that though the petitioner has submitted Caste Validity Certificate, however, name on the Certificate differs from present name of the petitioner. The name of the petitioner is Kushawarta w/o Vishnu Shinde, whereas name on the Validity Certificate appears as Gaikwad Kushawarta Vaman and he submits that therefore this Certificate cannot be said to be of the petitioner.

05. The petitioner submits that in-fact the name appearing on the certificate is her parental name. She is shown as daughter of Vaman Gaikwad in the said certificate. Her name is changed after her marriage. It is further submitted that if at all there was any doubt in the mind of the authority, it was open for the authority to call the petitioner and seek clarification about

change in the name. This Court finds that in this peculiar facts of the case, it was necessary for the authorities to seek clarification from the petitioner before passing the order of disqualification.

06. This Court finds that the impugned order deserves to be quashed and set aside. It is open for the authorities, if they have any doubt in the mind, to call for clarification from the petitioner and pass fresh order, if necessary. In view of the same following order :-

ORDER

- (i) The petition is allowed.
- (ii) The impugned order passed by the learned Collector, Beed dated 15.06.2023 declaring the petitioner as disqualified on the ground of non-submission of caste validity certificate is quashed and set aside to the extent of the petitioner.
- (iii) The Authorities are free to seek necessary clarification from the petitioner. If the petitioner is called upon to clarify change in the name in the certificate and her present name, she should co-operate the Authorities.
- (iv) With above directions, the petition stands disposed off.

[KISHORE C. SANT, J.]