

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

WRIT PETITION NO. 53 of 2023

Soni d/o Ramakant Pawar alias Sau.Soni Vijay Thakur

vs.

State of Maharashtra through its Secretary, Rural Development Department, and ors.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Gopal Mishra, Advocate Advocate for petitioner.
Shri A.M.Deshpande, I/c. Government Pleader for respondents.

CORAM :- A.S.CHANDURKAR AND MRS.VRUSHALI V. JOSHI, JJ.

DATE :- JANUARY 16, 2023.

The petitioner claims to belong to 'Thakur' Scheduled Tribe. She had contested elections for the post of Member of Gram Panchayat-Dasarkhed, Taluka-Malkapur, District Buldhana on a seat reserved for the Scheduled Tribe category.

In accordance with the provisions of Section 10-1A of the Maharashtra Village Panchayats Act, 1959 (for short, the said Act) prior to contesting the elections the petitioner's tribe certificate was referred by the Tahsildar to the Scrutiny Committee on 24.12.2020. On 29.12.2020 the petitioner submitted an undertaking that her tribe claim had been referred for scrutiny and that within a period of twelve months, she would produce the validity certificate. The petitioner was declared elected on 18.01.2021 by the Election Returning Officer. Her claim is still pending before the Scrutiny Committee and hence by this writ petition a direction is sought for expeditious consideration of her tribe claim. By way of an interim relief, it is prayed that the petitioner be permitted to continue as a member of the Gram Panchayat till the proceedings are decided by the Scrutiny Committee.

We have heard the learned counsel for the parties. The learned counsel for the petitioner relies upon the Government Resolution dated 18.05.2022 by which the Rural Development Department has extended the time to submit the validity certificate till 17.01.2023. It is however to be noted that the production of caste validity certificate within the stipulated time has been found to be mandatory by the Full Bench in *Anant H. Ulahalkar and another Vs Chief Election Commissioner and others [2017(1) Mh. L. J. 431]*. This decision has been maintained by the Hon'ble Supreme Court in petition for Special Leave to Appeal (C) No.(s) 29874-29875/2016 (*Shankar Raghunath Devre (Patil) vs. State of Maharashtra and ors.*). It is thus clear that as per proviso to 10-1A of the said Act submission of the validity certificate is mandatory. Notwithstanding Government Resolution dated 10.05.2022 it is clear that by tomorrow the petitioner would not be in a position to submit validity certificate since the time has been extended only till 17.01.2023.

Hence while directing the Scrutiny Committee to expeditiously decide the claim of the petitioner within a period of three months, no direction to protect the petitioner's membership as Gram Panchayat member can be granted.

Accordingly the writ petition is disposed of by directing the Scrutiny Committee to decide the proceedings for verification by the end of April, 2023. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)