

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 265 OF 2024  
WITH CIVIL APPLICATION NO. 568 OF 2024

Yogita w/o Vishnu Sonawane @  
Yogita d/o Ramesh Baviskar  
Age : 23 Years, Occ. Member,  
R/o. Sakegaon, Tq. Bhusawal,  
Dist. Jalgaon

.. PETITIONER

**VERSUS**

1. The State of Maharashtra  
Rural Development and  
Panchayat Raj Department,  
Mantralaya, Mumbai  
through its Principal Secretary
2. District Collector,  
Jalgaon, Dist. Jalgaon
3. Tahsildar,  
Bhusawal, Tq. Bhusawal,  
Dist. Jalgaon
4. Gopal s/o Kashinath Thakur,  
Age : 45 Years, Occ. Business,  
R/o. Sakegaon Tq. Bhusawal,  
Dist. Jalgaon

.. RESPONDENTS

...  
Advocate for the Petitioner : Mr. S. S. Phatale  
AGP for Respondent Nos. 1 to 3 : Mrs. R. R. Tandale (Choure)  
Advocate for Intervener C.A. No. 568/24 : Mr. V. D. Salunke  
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**CORAM : S.G. MEHARE, J.**

**DATED : FEBRUARY 29, 2024**

**PER COURT:-**

1. The petitioner is an elected member of the Village Panchayat  
from the reserved category on 15.01.2021. She had applied for a

Caste Validity Certificate to the Caste Scrutiny Committee through the Tahsildar on 10.12.2021. The Cast Scrutiny Committee rejected her petition for validity on 24.12.2021 because the competent authority with territorial jurisdiction did not issue the caste certificate she attached to the application. The petitioner had impugned the said judgment and order of the Caste Scrutiny Committed in Writ Petition No. 1522 of 2022. It was submitted before the High Court that the said order was passed without notice and the opportunity of hearing. The High Court on 2.2.2022 quashed and set aside the order dated 24.12.2021, and directed the Caste Scrutiny Committee to decide this aspect, on the basis of which the impugned order was passed after hearing the petitioner. The petitioner again approached the Caste Scrutiny Committee. Before the Caste Scrutiny Committee, Dhule, it was argued that her native is Pungaon, Taluka Chopada, District Jalgaon. The Caste Scrutiny Committee Dhule, in the earlier orders dated 24.12.2021 and dated 06.11.2023, relying on the pronouncement of this High Court in ***Writ Petition No.4918 of 2012 (Shri. Rajendra Shivram Thakur Vs. State of Maharashtra and others)*** decided on 05.07.2019 held that the ratio laid down in the said case was squarely applicable to the case at hand. The Caste Scrutiny Committee also referred to Section 5(2) of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Classes and Special Backward Category (Regulation of Issuance and

Verification of) Caste Certificate Act, 2000 (Mah. XXIII of 2001) and further held that the native of the petitioner was Pungaon, Taluka Chopada, District Jalgaon; therefore, the Sub Divisional Officer, Erandol, District Jalgaon had no territorial jurisdiction to issue the caste certificate. Lastly, the learned Tribunal rejected the caste validity application, keeping the merits open. It has cancelled and seized the caste certificate produced by the petitioner. Interestingly, the petitioner herself admitted before the authority that she does not reside within the territorial jurisdiction of the Sub Divisional Officer authorized to issue a caste certificate at Erandol, District Jagaon. After the order of the Caste Scrutiny Committee, dated 06.11.2023, she applied to the Sub Divisional Officer, Chopada. She received a caste certificate on 08.11.2023. After the order dated 6.11.2023, she had applied afresh on 28.11.2023 for a caste validity certificate. On the above premise, the petitioner has claimed that she deserves protection under Section 3 Sub Clause (1)(b) of the Maharashtra Temporary Extension of Period for Submitting Validity Certificate (for certain elections to Village *Panchayats*, *Zilla Parishads* and *Panchayat Samitis*) Act 2023, ("Act of 2023", for short).

2. The learned counsel for the petitioner, reading the above provisions, submits that earlier to this also she was declared disqualified. However, in view of the provisions of the Act of 2003,

she was continued as a Sarpanch. He submits that her caste validity was not rejected on merits. It was rejected only on the lack of territorial jurisdiction. As per the Act of 2023, she is protected till July 10, 2024. Her application for cast validity is pending. However, the Collector incorrectly interpreted the provisions of the Act of 2023 and illegally declared her disqualified to be a Member of the Village Panchayat.

3. Per contra, the learned A.G.P for the State and Mr. Salunke, learned counsel for the intervener, have strongly opposed the petitioner's contentions. They submit that the petitioner cannot take advantage of the Act of 2023. Her application for caste validity dated 18.12.2020 was invalidated. The petitioner has played mischief, taking advantage of the High Court order remitting the matter back. Before the last order of the Caste Scrutiny Committee dated 06.11.2023, she realized the mistake and then she applied for a caste certificate to the Sub-Divisional Officer, Chopada, on 26.08.2023. She did not immediately apply after the first order to get the certificate from the S.D.O. Chopada when she knew that her native was within his jurisdiction. The conduct of the petitioner clearly indicates that she was killing time and playing mischief with the Government. The Act of 2023 would not save her from her defaults and mischief. She was elected on 29.01.2021. She was to produce the Caste Validity

Certificate on 16.01.2022. After the order of the Caste Scrutiny Committee, dated 06.11.2023, she filed a fresh application. She could not cure the mistake, which was apparently deliberate. It could not be said that her last pending application for a caste certificate extends her benefit of sub-clause 1(b) of Section 3 of the Act of 2023.

4. To bolster his argument, Mr. V.D. Salunke, learned counsel for the intervener, relied on the case of *Sudhir Vilas Kalel and Others Versus Bapu Rajaram Kalel and Others, reported in 2024 DGLS (SC) 66* and submitted that the facts of this case were identical to the case in hand. This Court has interpreted the provisions of the Act of 2023 and correctly pointed out the mischief played by the elected Members of the Village Panchayat. It has been held on the identical facts that the petitioner in the said petition was not entitled to protection under Section 3 of the Act of 2023. He prayed to dismiss the petition.

5. It appears that the petitioner, an aspirant to contest the election, had applied for a Caste Validity Certificate before nomination and submitted her caste certificate for validity to the Tahsildar, the Election Officer. The arguments of the learned counsel for the petitioner reveal that he claimed that pending her last application for a cast validity certificate after curing the defect of the caste certificate is the continuation of her earlier application.

6. Was her last application the continuation of the earlier application for caste validity?

7. In the case of Sudhir Vilas Kalel (*supra*), the Honourable Supreme Court has discussed the Act of 2003 in detail with its object. The said Act provides two contingencies to protect the disqualification for not submitting the caste Validity Certificate. Clause (a) of Sub-section (1) of Section 3 is for the persons who have applied to the Scrutiny Committee before the date of filing of the nomination papers, and clause B protects the persons whose elections were terminated or deemed to have been terminated for the member of the Village Panchayat for not submitting the Validity Certificate within 12 months from the date of commencement of the Ordinance. The protection to such elected members is for 12 months from the date of commencement of the Ordinance for not submitting the Validity Certificate. Admittedly, the Caste Scrutiny Committee had immediately disposed of the application of the petitioner on December 24 2021 from its receipt. It was decided well within time. However, the petitioner impugned that order and obtained the order in the Writ Petition as mentioned above and again proceeded on the same documents, which was held inadmissible for want of territorial jurisdiction of the issuing authority

8. As far as the pending application is concerned, the Hon'ble Supreme Court, on the premise of the fact of the case of Sudhir that the petitioner had applied for a caste Validity Certificate on the date of filing of his nomination, which was rejected on 1-03/04/2021, the facts of the said case were that the filing another application on 14.6.2023 was only refilling after curing the defects. On this count, this Court, in its judgment which was impugned before the Hon'ble Supreme Court, has observed in paragraph Nos. 32 and 33 which reads thus

“32. In this particular case, Sudhir's application for a Validity Certificate was rejected on April 1, 2021. The argument that this rejection is technical is totally irrelevant. In fact, the order seems to us to expose precisely the mischief that is sought to be cured and addressed by Section 10-1A and the amended proviso. It is not permissible for a candidate to simply file an application and do nothing further. That application for a Validity Certificate must be properly filed and followed through. The mere filing of the application is not in sufficient compliance with the statute. The Validity Certificate has to be obtained within the time provided, whether by the original statute or by the Temporary Extension Act. Simply filing some sort of defective application with incomplete documents does not meet the statutory purpose.

33. Thus, if even the mischief rule of interpretation, the oldest interpretation doctrine by far, (Heydon's case, 1584, 76 ER 637) is adopted for the purposes of the Maharashtra

Village Panchayats Act, 1959 and the Temporary Extension Act, it is clear that defective or incomplete applications that result in a rejection are no different from a rejection on merits. Yet, Section 3(2)(b) of the Temporary Extension Act is thus an essential safeguard.

9. In the case of Sudhir (supra) in paragraph No. 38, it has been observed that as is clear from Section 31, the further period of twelve months from 10.07.2023 was for those whose applications were validly filed and pending and where their applications have been submitted before the date of nomination. Subsection (1)(b) of Section 3 of the Temporary Extension Act, 2023 only revives the membership of those whose applications are pending by enacting deeming provisions since they are now given a further period of twelve months from 10.07.2023 to furnish the Validity Certificate. Subsection (2)(b) clearly states that Section 3(1) was not to apply to members whose application for the Validity Certificate has been rejected by the Caste Scrutiny Committee. The rejections in Section 3(2)(b) will also include those cases where applications came to be rejected on account of defaults committed at the end of the applicants themselves. An applicant who has certain things under his control ought to have done everything that is under his control for the purpose of Section 3 of the Temporary Extension Act 2023. This would also mean that Section 3(1) of the Temporary Extension Act, 2023 would not apply

since there was no valid application filed before the nomination to the Caste Scrutiny Committee which was pending.

10. The Hon'ble Supreme Court has laid down a crystal clear verdict the application not filed validly could be said to be the application pending as required under the Act of 2023. The petitioner had learnt for the first time in December 2021 that her caste certificate was invalid, but she did not prefer to show diligence in securing a caste certificate from the competent authority. On the contrary, she went on killing time by filing proceedings after proceeding. She has spent time of more than two years to obtain the last Caste Validity Certificate from the competent authority. The facts of the case undoubtedly prove that resubmission of the application after curing the defects is not an application pending, as provided under Section 3(1) (b) of the Act of 2023. The Caste Validity Certificate of the petitioner was rejected. Therefore, she cannot take advantage of the said provisions. Interestingly, this was not her first disqualification for the same reason. Earlier also, she was disqualified. Be that as it may, the above discussion leads this Court to arrive at the conclusion that the last application submitted on 28.11.2023 does not fall under Section 3(b) of the Act of 2023. She failed to comply with the Act of 2023. Therefore, the Act would not shield her from continuing as a Member of the Village Panchayat. Her application,

which is pending before the Caste Validity Scrutiny Committee, is not a continuation of her application.

11. The impugned order is free from infirmity and illegality. Therefore, the petition stands dismissed.

12. The Intervention application No. 568 of 2024 is allowed.

**(S.G. MEHARE, J.)**

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