

Nikita

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.207 OF 2024

Sangappa S/o Chandappa Koli ... Petitioner

V/s.

State of Mahashtra Through Secretary
Rural Development Department and
Ors.

... Respondents

Mr. Vaibhav V. Ugale, for the Petitioner.

Mr. Y.D. Patil, AGP for the State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 23, 2024

P.C.:

1. The petitioner is challenging order passed by Collector disqualifying the petitioner from continuing with the Grampanchayat member under the provisions of Bombay Village Panchayats Act, 1958 in an election held in the year 2021 for Grampanchayat Balagi. The petitioner contested the election as a candidate belonging to Scheduled Castes category. The petitioner filed his nomination paper annexing copy of the caste certificate dated 10th February 1997 issued by Tehsildar South Solapur. The Petitioner was declared elected by the Election Officer.

2. The petitioner sent his caste certificate dated 10th February 1997 to the Caste Scrutiny Committee on 28th December 2020. The Committee by communication dated 17th August 2021, directed

the petitioner to furnish caste certificate under form (c).

3. The petitioner, therefore, applied to the Sub-divisional Officer Solapur No.2 for issuance of caste certificate. The Sub-divisional Officer by order dated 28th October 2021 rejected petitioner's application for issuance of caste certificate.

4. Aggrieved thereby, the petitioner has filed appeal before the Additional Commissioner, Schedule Castes Certificate Scrutiny Committee Pune, Division Pune. The appeal is pending.

5. In the meanwhile, the Collector of Solapur initiated proceedings under Sections 10(1)(a) of the Bombay Village Panchayats Act 1958 for declaring petitioner's election as void.

6. The Collector declared the petitioners election as void on the ground that petitioner failed to furnish the proof that his application for validation of caste certificate was pending before the Caste Scrutiny Committee. The Collector, therefore recorded a finding that the petitioner is not entitled to benefit of ordinance dated 10th July 2023. Aggrieved thereby the petitioner has filed present application.

7. Learned counsel for the petitioner submitted that petitioner's appeal against refusal to issue caste certificate is pending and, therefore, the petitioner is entitled to the benefit of ordinance of 10th July 2023 which extended the period to furnish validity certificate for a period of one year from the date of communication to the force of orders.

8. It is well settled that the scrutiny of nomination paper is the

date of election and on the said date the candidate must be fully qualified to contest an election. If a person files nomination paper claiming himself to be a person belong to backward class, it is necessary that he must furnish validity certificate issued by the Caste Scrutiny Committee or if permissible in law, caste certificate along with the proof that validity of such certificate is pending before the Scrutiny Committee.

9. In the facts of the case, the petitioner contested the election claiming himself to be a candidate belonging to backward class. In support of valid nomination paper, he furnished caste certificate issued by Sub-divisional Officer. The period of one year provided under the act shall enable a candidate to submit a validity certificate issued by Caste Scrutiny Committee within period of one year. However, in the acts of the present case, the petitioner, in view of the directions issued by the Scrutiny Committee, applied before the Sub-divisional Officer for issuance of fresh Caste Certificate. The petitioner's applications for issuance of caste certificate as a candidate belonging to Scheduled Castes has been rejected. Therefore, petitioner's nomination claiming to be a person belonging to Scheduled Castes becomes incomplete. Once the nomination paper is incomplete, the declaration of petitioner's election as a void is automatic consequence as has been held by the full bench of this Court in the case of **Sujit Vasant Patil Vs. State of Maharashtra and Ors.** reported in (2004) MHLJ 1109.

10. Even otherwise, the Apex Court in the case of the **Food Corporation of India and Others Vs. Jagdish Balaram**

Bahira and Ors. reported in (2017) 8 SCC, 670 held that on invalidation of caste certificate the benefits conferred in favour of such candidate needs to be taken away. Since the proceedings for validity of caste certificate were not pending before the Caste Scrutiny Committee on the date of 10th July 2023 nor on the date of passing of impugned order, the petitioner is not entitled to claim benefit of ordinance of 10th July 2023. Therefore, once the Sub-divisional Officer refuses to grant caste certificate to the petitioner and since on the date of passing of impugned order, petitioner's application for validation of caste certificate was not pending nor any caste certificate validated by Scrutiny Committee was issued in favour of the petitioner, the Collector was duty bound to declare election of petitioner as void.

11. There is no merit in the writ petition, the writ petition stands dismissed. No costs.

(AMIT BORKAR, J.)