

JPP

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

WRIT PETITION NO. 2935 OF 2024

Sita Dnyaneshwar @ Dnyanoba Nehatrao ... Petitioner

V/s.

The State of Maharashtra and Ors. ... Respondents

Mr. Priyal G. Sarda for the Petitioner

Mr. S.H. Kankal, AGP for the Respondent - State

***CORAM : NITIN JAMDAR &
M.M. SATHAYE, JJ.***

DATE : 20 MARCH 2024

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner contested the election to the post of Member of the Gram Panchayat, Village - Vangi, Taluka – Solapur and was elected as Sarpanch. The Petitioner contested seat meant for the Reserved Category (ST) on the basis of the caste certificate issued to the Petitioner on 6 August 2021 as Koli Mahadev. The caste certificate was sent for verification to the Respondent – Scrutiny Committee. The Scrutiny Committee directed enquiry through

Vigilance Cell which was conducted. The Vigilance Cell produced the documents on record such as school records, etc. After giving an opportunity to the Petitioner, by the impugned order dated 23 January 2024, the Petitioner's caste certificate was invalidated.

3. The Petitioner's school record in the Municipal School, Pandharpur at Entry No. 3/466 shows as Hindu M. Koli with an endorsement of the Head of the School that 'M' is written differently as regards the entry at 9/1388 in the Municipal School No.1 at Pandharpur. As regards the Petitioner's father, the entry is Koli. The certificates and extract placed on record by the Petitioner as Mahadev Koli are of recent origin when the document prior to the year 1950 have greater protective value. The Petitioner relied upon the validity certificate issued to the Petitioner's cousin brother Shyam and Santosh. The Scrutiny Committee has noted that these validity certificates did not consider the evidence of the relatives from 1921 to 1960 and by order dated 30 December 2021, their validity certificates were cancelled on the ground of fraud and misrepresentation. The learned Counsel for the Petitioner states that these two candidates filed Writ Petition (St.) No. 3069 of 2022 and Writ Petition No. 1876 of 2022 and there are interim orders passed in these Petitions and similar orders be passed in the case of the Petitioner.

4. We note that the ad-interim order was passed in Writ Petition as above by taking them on board by way of urgency and while issuing notice it was directed that no precipitative action be taken pursuant to the impugned order.

5. As on today considering the legislature regarding the disqualification and relinquishment of seat by the same ad-interim order, the elected representatives whose caste certificates are invalidated and that we have considered the matter in detail examining the order of the Scrutiny Committee and the Court and that Santosh and Shyam were not elected representatives, we are not inclined to pass any interim order as the elected representatives even under the scheme of the Act and the governing statute concerning elections stand on a different footing when caste certificates are invalidated.

6. Stand over to **23 April 2024** to enable the learned AGP to file reply affidavit. It is open to the Petitioner and the learned AGP to circulate the Writ Petition (St.) No. 3069 of 2022 to be heard along with the present Petition after giving notice to the Advocate for the Petitioners therein. No interim order in the meanwhile.

M.M. SATHAYE, J.

NITIN JAMDAR, J.