



(1)

51wp3225.25

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

51 WRIT PETITION NO. 3225 OF 2025

**VAISHALI BHAGWAT GARKAL ALIAS VAISHALI AMBADAS
DONGARE**

....Petitioner

VERSUS

THE DISTRICT COLLECTOR BEED AND OTHERS

.....Respondents

Mr. Yogesh B. Bolkar, Advocate for the petitioner
Mr. P. P. Dawalkar, AGP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 11th MARCH, 2025

P. C.

1. The petitioner is declared disqualified in view of section 10 (1-A) of the Maharashtra Village Panchayat Act for non submission of caste validity certificate within one year from the date of election.

2. In this case the petitioner was elected as member of village panchayat from the seat reserved for the persons belonging OBC (Ladies). The petitioner immediately within two

months received caste validity certificate duly issued by the Caste Scrutiny Committee. However, though she received validity certificate, for some reasons she could not submit in the office of Tahasildar as required under law. For this reason, the learned Collector by order dated 31-01-2025 declared the petitioner as disqualified.

3. The learned advocate for the petitioner vehemently argued that in fact the petitioner belongs to reserved caste. There is no dispute as she has received caste validity certificate as belongs to Other Backward Classes. The validity certificate is also issued well within time. Only due to inadvertent, same could not be filed before the authorities.

4. The learned advocate for the petitioner relies on the Division Bench Judgment of this court in the case of Vitthal Rajaram Shitole Vs the Collector, Pune an others¹. He relies specifically on para No. 14 of the said judgment. The Division Bench of this court has held that the disqualification is attached

¹ 2024 (1) Bom 268

in only two circumstances, in view of the Extension Act one; that Grampanchayat member has not even applied for a validity certificate at all and secondly; the application filed and is rejected by the validity scrutiny committee. In no other cases there can be disqualification. The learned advocate for the petitioner prays for allowing the petition.

5. The learned AGP vehemently opposed the petition. He submits that in view of wording of section 10(1-a) it is very clear that it is the member/Sarpanch/Upsarpanch to submit a validity certificate within time with authority. Merely possessing the validity certificate is not sufficient. Becoming a member of the Grampanchayat is not fundamental right and is only statutory right subjected to all the limitation given under the statute. No benefits can be given merely because the petitioner belongs to a particular community. In absence of submission of caste validity certificate in the office. He further submits that the Hon'ble Apex court in the case of Sudhir Vilas Kalel and others Vs Dapu Rajaram Kalel² has clearly held that provision of section

10(1-a) no exception is provided except provided under Section 10(1-ak). The Division Bench in the case of Vitthal Rajaram Shgitole (*supra*) was considering the provision of Maharashtra Temporary Extension of period for submitting Validity Certificate (for certain elections to Village Panchayats, Zilla Parishads and Panchayat Samitis) Act, 2023, whereby extension was granted by the Act for a particular period. The judgment of division bench therefore, would not be applicable. The act was passed specifically considering the situation prevailing at that time that that extension was granted only for one year from the date of Act. That extension period has also expired on 09th July, 2024. Thus, this judgment is of no useful to the petitioner. So far as the Judgment of the Supreme Court is concerned in the case *Sudhir Vilas Kalel (supra)* this court finds that it is squarely applicable to the present case. This court finds substance in the arguments of learned AGP for the State. This court has also passed the order considering the judgment in the case of *Sudhir Vilas Kalel (supra)*.

6. Considering the above, this courts finds no merit in the matter. Therefore, the petition stands dismissed. No order as to costs.

[KISHORE C. SANT, J.]

VishalK/51wp3225.25