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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.2706 OF 2025
WITH CA/2809/2025**

**SHITAL BALBHIM GAYKWAD
VS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. N. B. Khandare, Senior Advocate h/f Mr. V. P. Savant,
Advocate for the petitioner
Mr. K. S. Patil, AGP for the respondent Nos. 1 to 3
Mr. N. P. Patil-Jamalpurkar, Advocate for the respondent Nos. 5
to 15
Mr. A. C. Chapule, Advocate for respondent No.4

**CORAM : KISHORE C. SANT, J.
RESERVED ON : 12th MARCH 2025
PRONOUNCED ON : 09th APRIL 2025**

ORDER.

1. The petitioner has approached this court challenging the notice dated 18-02-2025 issued by the learned Tahasildar, Latur calling for special meeting on requisition of the members for disqualification.

2. Respondent Nos. 1 is the State of Maharashtra, No.2 and 3 are the District Collector and Tahasildar, No.4 is the

Village Development Officer, No.5 is the Upsarpanch and Nos. 6 to 15 are the members of the Grampanchayat, Gangapur, Dist. Latur.

3. The facts in short giving rise to the present petition are as under:

4. That the petitioner is directly elected in December 2022 as a Sarpanch of village Gangapur. She is elected as a reserved candidate from Scheduled Caste person. Respondent No.5 came to be elected as a Upsarpanch of the Village Panchayat. Due to some reasons, the members did not allow the petitioner to run Grampanchayat smoothly. They were not cooperating the petitioner. Even respondent No. 4 Village Development Officer did not cooperate. The petitioner, therefore, approached the Chief Executive Officer, Zilla Parishad, Latur and learned Block Development Officer, Panchayat Samiti, Latur raising grievance about behavior of the Village Development Officer and other members. The petitioner also

filed a complaint with the Divisional Commissioner, Aurangabad Division by filing proceeding under Section 39(1) of the Maharashtra Village Panchayat Act against the members. One another member had also filed a dispute before the learned Collector to declare the petitioner as disqualified under Section 14 of the Maharashtra Grampanchayat Act.

5. On this back ground, the respondents members approached the learned Tahasildar on 18-02-2025 requesting him to call special meeting by moving no confidence motion. On receipt of motion, the learned Tahasildar immediately called a special meeting on 24-02-2024 at 02.00 pm. On 19-02-2025 the petitioner approached this court on receipt of notice. The petitioner has challenged the notice mainly on the ground that notice of motion is moved with malafide. Respondent Nos.9, 10, 12, 14, and 15 have already incurred disqualification as they have not submitted the caste validity certificate within time. Even these members-respondents have signed this notice of motion. These members consequently are not entitled to seat

and vote in the meeting. The learned Tahasildar without verifying this aspect has called for meeting etc.

6. The learned Senior Advocate Mr. Khandare, submits that in view of Rule 2 (3) of the Maharashtra Village Panchayat in no confidence rules 1975 the Tahasildar has to apply his mind and to see whether the members who have signed notice of motion are entitled to seat and vote in the meeting. The above respondents are disqualified and therefore, cognizance of notice under their signature could not have been taken. He submits that thus entire exercise of moving no confidence motion by the members and calling of meeting by the Tahasildar on the basis of such resolution itself is illegal. He, thus, prays for quashing the said notice.

7. Mr. Jamalpurkar, learned advocate vehemently opposed the petition. He submits that section 10 1-A though prescribes that a caste validity certificate is to be produced within a year, however, it is not clear as to before which

authority it is to be submitted. In the present case the members have submitted the validity certificate before the Village Development Officer with a request to forward the said certificates to the Blok Development Officer. Respondent No. 14 has received caste validity certificate on 12-04-2023. Respondent Nos. 10 & 14 had submitted the caste validity certificate through whatsapp to the Village Development Officer with a request to forward it to the Block Development Officer before they were declared as disqualified on 18-02-2025. He submits that the petitioner herself had submitted the validity certificate in February, 2025 and thus she was also disqualified from being Sarpanch. The learned Tahasildar had issued letter on 14-02-2025 to the learned Collector giving names of the persons who have submitted the caste validity certificate and those who have not submitted the same. Names of respondent Nos.10, 12, 14, and 15 appeared in the list of the persons who submitted the caste validity certificate. He, thus, submits that on the date of requisition of the members had submitted validity certificate and none was declared as disqualified. By order dated

24-02-2025 the learned Collector disqualified only respondent No.9. He submits that respondents are very much qualified to seat and vote in the meeting. He, prays for rejection of the petition.

8. The learned AGP submits that there is remedy to challenge no confidence motion once passed by the members. The present petition is not maintainable as there is no any judicial or quasi judicial order under challenge. Disqualification of the petitioner herself is automatic as she has failed to furnish caste validity certificate within one year from the date of her election. He relies upon the judgment in the case of Sudhir Vilas Kalel and Ors Vs Bapu Rajaram Kalel and others¹ wherein the Hon'ble Apex Court has held that disqualification for non-submission of the caste validity certificate is automatic. The judgment of Sudhir Kalel (supra) arising out of the same proceeding under no confidence motion is squarely applicable.

9. In rebuttal the learned Senior Advocate for the

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petitioner submits that in view of the judgment in the case of Sudhir Kalel (supra) disqualification of the members is automatic and no specific order is required declaring such members as disqualified. Intention of the legislature is clear to make person un-seat the moment, he fails to submit caste validity certificate within one year and thus respondent Nos. 9,10,12,14 & 15 were disqualified.

10. After hearing the parties this court finds that there is no dispute about the dates and events. This court in view of this, has to consider as to whether this court has jurisdiction to entertain the petition only against no confidence motion and the notice calling meeting on such motion, by the Tahasildar?

11. The learned AGP has shown that notices were issued to the respondents who were elected from the reserved category calling them for hearing as the caste validity certificate were not submitted till 17-01-2023. This question is redundant for the present in the present petition. There is no case of the petitioner

that she has submitted caste validity certificate within time. However, it is for the authority to consider qualification or disqualification of the petitioner on that ground.

12. This would assume importance only if this court comes to a conclusion that the petition is maintainable against issuance of notice. Though it is argued by the learned Senior Advocate that learned Tahasildar has to apply its mind in view of Rule 2 (3) of the Maharashtra Village Panchayat (no confidence) Rules, 1975. This court does not find any authorizing the learned Tahasildar to go into the question of qualification and disqualification of members while acting on the notice of motion and calling for special meeting of the members of the Grampanchayat. This court does not find that the petition is maintainable challenging the notice issued by the learned Tahasildar. At this stage, learned Tahsildar has to only see that motion is moved and he has to call upon to convey the meeting.

13. This Court finds that there is no order passed under

judicial or quasi judicial authority under challenge. This Court is therefore not inclined to entertain the petition. There is one more reason for not entertaining petition that there is remedy available to the petitioner to challenge notice of motion if passed. For the reason recorded, the petition stands dismissed.

14. The interim granted by this court by order dated 24-02-2025 directing not to hold the meeting pursuant to the notice dated 18-02-2025, stands vacated.

15. The learned Tahsildar is free to proceed further in accordance with law.

16. In view of dismissal of the writ petition, pending civil application stands disposed off.

[KISHORE C. SANT, J.]

LATER ON:

1. At this stage, the learned advocate for the petitioner prays that interim relief granted earlier be continued for a

period of four weeks.

2. Said request is opposed by the learned advocate for the respondents.

3. However, considering that there was an interim relief granted by this court, same be continued for a period of two weeks from today.

4. However for said period, the petitioner shall not take any policy decision.

[KISHORE C. SANT, J.]

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