



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

926. WRIT PETITION No. 3327 of 2019

Ganesh S/o Ramesh Kandelkar and others ...Petitioners

VERSUS

The State of Maharashtra and others ...Respondents

Mr. Sagar S. Phatale, Advocate for petitioners

Mr. Y.G. Gujarathi, Asstt. Govt. Pleader for respondents no.1 to 3

CORAM : SUNIL P. DESHMUKH, J.

DATE : 7th March, 2019

ORDER:

1. Issue notice to respondents, returnable on 8th April, 2019.
2. Learned Assistant Government Pleader waives notice for respondents No.1 to 3.
3. Learned counsel Mr. Phatale for petitioners urges for interim relief stating that petitioners no.1 to 4 had been elected as Members of Village Panchayat, Rajura, Taluka Muktainagar, District Jalgaon, in elections held in May, 2017 from Scheduled Tribes category and petitioner no.4 had been elected as



Sarpanch of the Village Panchayat. Their caste/tribe validity certificate proceeding is pending before the Caste/Tribe Verification Scrutiny Committee. However, they have been declared to have been disqualified by respondent no.3- the Collector, Jalgaon, under impugned order dated 31st December, 2018 for non-submission of caste/tribe validity certificates within stipulated period. Learned counsel draws attention to Ordinance No. II of 2019 issued by the Government of Maharashtra on 14th February, 2019, particularly, clause (4) thereof, reading, thus,

“ 4. Section 8 of the amendment Act, shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, following sub-section shall be added, namely :—

“(2) Notwithstanding anything contained in sub-section (1), any person who has obtained Caste Certificate or Validity Certificate after the 26th March 2015, but has not filed such certificate within the stipulated period as per provisions of the Maharashtra Village Panchayats Act, shall not be deemed to be disqualified under the provisions of the Maharashtra Village Panchayats Act, if he has already submitted the Validity Certificate to the Competent Authority after expiry of the such stipulated period but before the publication of the Maharashtra Village Panchayats and the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) (Amendment) Ordinance, 2019 in the Official Gazette or if he submits such certificate within a period of three months from the date of such publication of said Ordinance, 2019 in the Official Gazette :

Provided that, the provisions of this section shall not apply where the State Election Commission has already prior to the date of publication of the Maharashtra Village Panchayats and the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) (Amendment) Ordinance, 2019 in the Official Gazette has held elections to fill the vacancy of such person or declared the programme for holding of such election. ”



4. He submits that though the certificates as yet have not been issued, petitioners would be entitled to submit said certificates before expiry of period of three months from the date of such publication of said Ordinance, as referred to under aforesaid provision.

5. Having regard to clause (4) of the Ordinance dated 14th February 2019, till returnable date, further consequent action pursuant to impugned order passed by the District Collector, Jalgaon, in *Gram Panchayat* Dispute No. 106 of 2018 dated 31st December, 2018 may not be taken.

6. In addition to service through court process, petitioner shall serve respondent No.4 by any legally acceptable private mode of service and file affidavit along with tangible proof to that effect within a period of one week before returnable date. In case of failure to serve respondent No.4 privately and file affidavit as directed before returnable date, *ad-interim* relief, as has been granted, would cease to operate.

**(SUNIL P. DESHMUKH)
JUDGE.**