

CORRECTED
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8902 OF 2019
(@ SLP (CIVIL) NO. 405 OF 2019)

BAYNABAI KATHALU PUNDGE .. Appellant(s)

Versus

THE STATE OF MAHARASHTRA & ORS. .. Respondent(s)

WITH

CIVIL APPEAL NO. 8903 OF 2019
(@ SLP (CIVIL) NO. 1755 OF 2019)

AND

CIVIL APPEAL NOS. 8904-05 OF 2019
(@ SLP (CIVIL) NOS. 2981-2982 OF 2019)

AND

CIVIL APPEAL NO. 8906 OF 2019
(@ SLP (CIVIL) NO. 5935 OF 2019)

O R D E R

CIVIL APPEAL NO. 8902 OF 2019
(@ SLP (CIVIL) NO. 405 OF 2019)

Leave granted.

Election to the post of Sarpanch, Gram Panchayat Bhogaon (Sable) was held on 07th August, 2015. The appellant belonging to Scheduled Caste (Mahar) was elected.

Section 10-1A of the Maharashtra Village Panchayats Act, ('Maharashtra Act') provides that a person desirous of contesting in the election to a seat reserved for Scheduled Castes, Scheduled Tribes or Backward Class of Citizens is required to submit a Caste Certificate issued by the Competent Authority and the Validity Certificate issued by the Scrutiny Committee in accordance with the provision of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. If a person has applied to the Scrutiny Committee for verification of his caste certificate before the date of filing of the nomination papers and has not received the certificate, he should submit along with the nomination papers, a true copy of the application preferred by him to the Scrutiny Committee for issuance of the Validity Certificate or any other proof of having made such application to the Scrutiny Committee. He shall also furnish an undertaking that he shall submit, within a period of six months from the date on which he is declared elected, a Validity Certificate issued by the Scrutiny Committee. The proviso to Section 10-1A of the Maharashtra Act postulates that failure on the part of the person who is elected to produce the Validity Certificate within a period of six months from

the date on which he was declared elected would entail in his election being deemed to have been terminated retrospectively and he shall be disqualified from being a Member of the Gram Panchayat. An Ordinance was issued on 11th October, 2018 by which the words "six months" were substituted by "12 months" for all purposes. The provision relating to submission of the Caste Validity Certificate within a period of "12 months" was made applicable with retrospective effect from 31st March, 2016.

On an application filed by one Kalyan Ramrao Sable, the District Collector, Parbhani declared the appellant as disqualified to hold the post of a Member, Gram Panchayat Village-Bhogaon(Sable), Taluka & District Parbhani on the ground that she failed to produce the Caste Validity Certificate within six months from the date of the election, i.e. 07th August, 2015. The said order was affirmed by the Additional Commissioner, Aurangabad by an Order dated 28th December, 2016, against which the appellant filed a writ petition in the High Court of Bombay, Aurangabad Bench. The High Court dismissed the writ petition by holding that the appellant was not entitled to the benefit of the Ordinance as the election to the Grampanchayat was held prior to 31st March, 2016. According to the High Court, the extension of the period from "six months" to "12 months" came into effect only from 31st March, 2016 and cannot come to the rescue of the appellant, who was elected prior to 31st March, 2016.

Aggrieved by the judgment of the High Court, the appellant is before this Court. We are informed that the Government of Maharashtra issued an Ordinance on 14th February, 2019 by which the figures and words "31st March 2016" in Section 2 of the Maharashtra Village Panchayats and the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) Act, 2018 (hereafter referred to as 'Amendment Act') are substituted with 26th March, 2015. The consequence of the Ordinance issued on 14th February, 2019 is that the appellant who was elected on 07th August, 2015 would be entitled to the benefit accruing therefrom. Learned counsel for the appellant submitted that the Caste Validity Certificate issued on 08th September, 2016 was submitted before the Commissioner within the time postulated by law.

We have heard learned counsel for the appellant and the State of Maharashtra.

The appellant is entitled for the benefit of the Ordinance issued on 14th February, 2019. There is no dispute that the Caste Certificate was issued in his favour by the Scrutiny Committee which was furnished to the authority within the prescribed time. The order passed by the District Collector declaring the appellant as disqualified as a Member of the Grampanchayat, as affirmed by the Additional Commissioner and the High Court is set aside.

In view of the aforesaid, the appeal is allowed.

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(@ SLP (CIVIL) NO. 1755 OF 2019)

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CIVIL APPEAL NO. 8906 OF 2019
(@ SLP (CIVIL) NO. 5935 OF 2019)

Leave granted.

In these cases, the elections of the Member/Sarpanch are scheduled to be held in December, 2019. Therefore, the proviso to Section 8 of the Amendment Act is not applicable. The appellants have furnished the Caste Validity Certificates before the concerned authority within the prescribed period. The order passed by the District Collector/Divisional Commissioner disqualifying the appellants is set aside.

These appeals are disposed of in terms of the order passed in Civil Appeal No.8902 of 2019.

.....J.
(L. NAGESWARA RAO)

.....J.
(HEMANT GUPTA)

New Delhi,
Dated: November 21, 2019

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his election being deemed to have been terminated retrospectively and he shall be disqualified from being a Member of the Gram Panchayat. An Ordinance was issued on 11th October, 2018 by which the words "six months" were substituted by "12 months" for all purposes. The provision relating to submission of the Caste Validity Certificate within a period of "12 months" was made applicable with retrospective effect from 31st March, 2016.

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Leave granted.

In these cases, the elections of the Member/Sarpanch are scheduled to be held in December, 2019. Therefore, the proviso to Section 8 of the Amendment Act is not applicable. The appellants have furnished the Caste Validity Certificates before the concerned authority within the prescribed period. The order passed by the District Collector disqualifying the appellants is set aside.

These appeals are disposed of in terms of the order passed in Civil Appeal No.8902 of 2019.

.....J.
(L. NAGESWARA RAO)

.....J.
(HEMANT GUPTA)

New Delhi,
Dated: November 21, 2019

ITEM NO.10

COURT NO.11

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 405/2019

(Arising out of impugned final judgment and order dated 10-12-2018 in WP No. 2883/2017 passed by the High Court Of Judicature At Bombay At Aurangabad)

BAYNABAI KATHALU PUNDGE

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ORS.

Respondent(s)

WITH

SLP(C) No. 1755/2019 (IX)
(WITH STAY APPLICATION)

SLP(C) No. 2981-2982/2019 (IX)
(EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 5935/2019 (IX)
(IA No.34878/2019-EXEMPTION FROM FILING O.T.)

Date : 21-11-2019 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO
HON'BLE MR. JUSTICE HEMANT GUPTA

For Petitioner(s) Mr. Atul Babasaheb Dakh, AOR

Mr. Rahul Chitnis, Adv.
Mr. Aaditya A. Pande, Adv.
Mr. Chander Shekhar Ashri, AOR

Mr. Shirish K. Deshpande, AOR
Mrs. Rucha Praveen Mandlik, Adv.
Mr. Mohit Gautam, Adv.

For Respondent(s) Mr. Nishant Ramakantrao Katneshwarkar, AOR
Mr. Anoop Kandari, Adv.

Mr. Suvidutt M.S., AOR

UPON hearing the counsel the Court made the following
O R D E R

CIVIL APPEAL NO. 8902 OF 2019
(@ SLP (CIVIL) NO. 405 OF 2019)

Leave granted. The appeal is allowed in terms of the Signed
Order.

Pending application(s), if any, stand disposed of.

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(@ SLP (CIVIL) NO. 1755 OF 2019)
AND

CIVIL APPEAL NOS. 8904-05 OF 2019
(@ SLP (CIVIL) NOS. 2981-2982 OF 2019)
AND

CIVIL APPEAL NO. 8906 OF 2019
(@ SLP (CIVIL) NO. 5935 OF 2019)

Leave granted.

These appeals are disposed off in terms of the order
passed in Civil Appeal No.8902 of 2019.

Pending application(s) also stand disposed of.

(GEETA AHUJA)
COURT MASTER (SH)

(SUNIL KUMAR RAJVANSHI)
BRANCH OFFICER

(Common Signed Order is placed on the file)