

(2017) 02 BOM CK 0001
In the Bombay High Court
Case No : Writ Petition No.1976 of 2017

Kanchan W/o Kailas Poul

APPELLANT

Vs

State Election Commission, Maharashtra State

RESPONDENT

Date of Decision : 10-02-2017

Acts Referred:

Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 — Section 10
Maharashtra Zilla Parishad and Panchayat Samitis Act, 1961 — Section 12A

Citation : (2017) 4 AIRBomR 33 : (2017) 2 ALLMR 400 : (2017) 3 MhLJ 643

Hon'ble Judges : Shukre, J.

Bench : Single Bench

Advocate : Writ Petition No. 1976 of 2017; Shri G.P. Sawant, Advocate, for the Petitioner; Shri S.T. Shelke, Advocate, for the Respondent Nos. 1 and 2; Shri V.M. Maney, Advocate, for the Respondent No.6; Writ Petition No. 1999 of 2017; Shri P.D. Bachate, Advocate, for the Petitioner; Shri S.T. Shelke, Advocate, for the Respondent Nos. 1 and 2

Final Decision : Dismissed

Judgement

S.B. Shukre, J. (Oral)—Head learned counsel for the petitioners, Shri Shelke, learned counsel for respondent Nos.1 and 2 and Shri Maney, learned counsel for respondent No.6 in Writ Petition No.1976/2017. The other respondents are served through paper publication as well as notice displayed on the notice board of respondent No.1 by the Returning Officer.

2. Rule. Rule made returnable forthwith and heard finally by consent of learned counsel for the contesting parties.

3. These petitions challenge the legality and correctness of the judgment and order dated 7/2/2017, passed in Election Appeals No.3/2017 and 4/2017, involving an identical question relating to incorrect rejection of the nomination papers on the ground that caste validity certificate has not been submitted by

the both the petitioners in accordance with the requirement of law.

4. It is not in dispute that both the petitioners, though submitted caste validity certificates, the caste validity certificates were not issued by the authority prescribed under the provisions 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 (Caste Certificate Act, 2000 for short).

5. Section 12-A of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 reads as follows :

"12-A. Person contesting election for reserved seat to submit Caste Certificate and Validity Certificate :-

Every person desirous of contesting election to a seat reserved for Scheduled Castes, Scheduled Tribes or, as the case may be, Backward Class of Citizens, shall be required to submit along with the nomination paper, Caste Certificate issued by the Scrutiny Committee in accordance with the provisions of Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes, (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (Mah. XXIII of 2001)."

6. It is clear from the above provision that the caste validity certificate to be produced by a candidate interested to contest the election must be one which has been issued in accordance with the provisions of the Caste Certificate Act, 2000. Since it is not in dispute that the caste validity certificates produced by the petitioners were issued not in accordance with the provisions of the said Act, I do not see any illegality in the impugned orders passed by the District Court.

7. There is no substance in the Writ Petitions. The Writ Petitions are dismissed with costs. Rule discharged.

8. It is made clear that, these observations shall not come in the way of the points to be canvassed by the interested parties in the election dispute, if initiated after completion of the elections.