



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11625 of 2026

Vishakha Sharad Raut alias Vishakha Moreshwar Raut ...Petitioner

Vs.

1. The State of Maharashtra
 2. Municipal Commissioner, BMC.
 3. The District Caste Scrutiny Committee Palghar
 4. The Divisional Commissioner, Konkan Division.
 5. Smt.Priya Sadanand Sarvankar Gurav
- ...Respondents

Mr. Surel Shah, Senior Advocate with Shrishailya Deshkumh with V. P. Shelar, for the Petitioner.

Mr. Diwankar Tayshete with Mr. D. R. Kawale, for Respondent No.2

Mr.Rajendra V. Pai with Aloukik R. Pai with Bina R. Pai with Akshay R. Pai with Siddhi Bhosale with Avadhut V. Patil with Rishabh Shanbaug with Rashmi Nikam with Omkar Kalundrekar i/b. Mr. Suryajeet Ravrane, for Respondent No.5.

Mr. Aditya R. Deolekar, AGP for the State.

Mr. Mahesh Guhle (Election Dept. BMC) Officer present.

CORAM: G. S. KULKARNI &
Dr. NEELA GOKHALE, JJ.

DATE: 2 September 2026.

ORAL JUDGMENT (Per G. S. Kulkarni, J.)

1. We have heard Mr. Surel Shah, learned Senior Advocate with Mr. Shrishailya Deshmukh, learned Counsel for the petitioner, learned Assistant Government Pleader for respondent Nos.1, 3 and 4 – State of Maharashtra, Mr. Pai, learned Senior Advocate for respondent No.5, who is the private respondent and the complainant who is immediately the next candidate defeated by the petitioner in the election of the Mumbai Municipal Corporation held in January 2026.

2. This petition under Article 226 of the Constitution of India challenges the communication(s) dated 25 August 2026 addressed by respondent No.2 – Municipal Commissioner of the Brihanmumbai Municipal Corporation (for short **‘the Municipal Commissioner’**) whereby invoking the provisions of Section 16(1C)(a) of the Mumbai Municipal Corporation Act, 1888 (**MMC Act**), the Commissioner has informed the petitioner that, as the caste certificate dated 19 December 2025 issued to the petitioner has been invalidated by the Caste Scrutiny Committee, Palghar by its order dated 20 August 2026, the petitioner’s election as a Councillor from Ward No.191 has stood automatically cancelled. On the even date, another communication was addressed by the Municipal Commissioner to the Principal Secretary, Urban Development Department, Government of Maharashtra, Mantralaya, Mumbai, informing him of the invalidation of the petitioner’s caste certificate as per the orders of the Caste Scrutiny Committee dated 20 August 2026 and that as per the provisions of Section 16(1C)(a) read with Section 16(1C)(b) of the MMC Act, an appropriate action would be required to be taken by the State Government by issuing a notification in the Official Gazette, to the effect that, from the date of the invalidation of the petitioner’s caste certificate by the Caste Scrutiny Committee (i.e. from 20 August 2026) for a period of six years, the petitioner would not be eligible to contest the elections. The legality of the said communication(s) of the Municipal Commissioner dated 25 August 2026 falls for determination in the present proceedings.

3. The facts lie in a narrow compass. There is no dispute in regard to

elections of the Mumbai Municipal Corporation held in the month of January 2026, in which, the petitioner participated from the constituency reserved for the candidate belonging to the Other Backward Class (OBC Woman), being Ward No.191.

4. As the petitioner contested the elections from the reserved constituency, as per the provisions of Section 5B of the MMC Act, a person contesting election on a reserved seat is required to submit a caste certificate and a validity certificate, and in the event an application is made prior to the election, the said certificate would be required to be obtained within a period of six months and to that effect an undertaking is required to be given by the candidate. Section 5B of the MMC Act is required to be noted which reads thus:

5B. Person contesting election for reserved seat to submit Caste Certificate and Validity Certificate. - Every person desirous of contesting election to a seat reserved for the Scheduled Castes, Scheduled Tribes or, as the case may be, Backward class of citizens, shall be required to submit, alongwith the nomination paper, Caste certificate issued by the Competent Authority and the Validity Certificate issued by the Scrutiny Committee in accordance with the provisions of the 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.

¹[Provided that, a person who has applied to the Scrutiny Committee for the verification of his Caste Certificate before the date of filing of the nomination papers, but who has not received the Validity Certificate on the date of filing of the nomination papers shall submit, alongwith the nomination papers,-

(i) a true copy of the application submitted 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; and

(ii) an undertaking that he shall submit the Validity Certificate issued by the Scrutiny Committee, within a period of six months from the date on which he is declared elected:

Provided further that, if such person fails to produce the Validity Certificate within a period of six months from the date on which he is declared elected, his election shall be deemed to have been terminated retrospectively and he

1 Amended by Maharashtra Act No 49/2025

shall be disqualified for being a Councillor.]

5. Considering the requirement of the said provision, the petitioner had made an application to the Sub-Divisional Officer, Palghar, who had granted a caste certificate dated 19 December 2025, to the petitioner, certifying that the petitioner belongs to “Kunbi Caste”, which falls in the Other Backward Class category at Sr.No.83. The petitioner also made an application to the Caste Scrutiny Committee, Palghar, for validation of the caste certificate. However, on the date of the declaration of the result of the election on 16 January 2026 when the petitioner was declared to be elected, the Caste Scrutiny Committee was yet to pass its order.

6. Be that as it may, the Caste Scrutiny Committee (respondent No.3), adjudicated the caste claim of the petitioner, also considering the objections / complaints as made by respondent No.5, and had passed a final order on the petitioner’s application being order dated 20 August 2026, by which, the petitioner’s caste certificate stands invalidated. The controversy in the present petition has arisen as a consequence of the Caste Scrutiny Committee passing such order invalidating the caste certificate.

7. In such context, at the outset, we may observe that the 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 (for short ‘the 2000 Act’), contains substantive provisions *inter alia* in regard to constitution of the Caste Scrutiny Committee and the proceedings before the

Committee and the provisions incidental thereto. The 2000 Act was recently amended by the Maharashtra Act No.XXXVIII of 2026 whereby relevant to the context in hand, the provisions of Section 6B providing for appeal against the orders passed by the Scrutiny Committee came to be incorporated. Also some other provisions including Section 10 of the 2000 Act providing for benefits secured on the basis of false caste certificate to be withdrawn was amended, to which we shall advert a little later. The said amending Act was brought into force with effect from 22 July 2026.

8. Section 6B of the 2000 Act provides that any person aggrieved by an order of the Scrutiny Committee passed under Sections 6, 6A or 7 may, within ninety days from the date of receipt of such order, file an appeal before the Appellate Authority, as specified by the Government, by a notification in the Official Gazette, and the Appellate Authority shall within a period of three months from the date of receipt of an appeal and after giving the appellant an opportunity of being heard, pass such orders. It further provides that the order passed by the Appellate Authority under this section shall be final and shall not be challenged before any authority or Court, except the High Court under Article 226 of the Constitution of India. It is not in dispute that the State Government has constituted the Appellate Authority and the jurisdiction to adjudicate the appeals under Section 6B of the 2000 Act is conferred on the Divisional Commissioner.

9. Also by the said Amending Act, an amendment was incorporated under Section 10 of the 2000 Act. Section 10 provides for “benefits secured on the basis of a false caste certificate be withdrawn”. Sub-section (5) was inserted by the

Amending Act *inter alia* providing that after the Caste Certificate has been cancelled and confiscated by the Scrutiny Committee, the concerned Appointing Authority, Local Authority, Government, Educational Institution, Statutory Body or Agency shall take an action for withdrawal of benefits given to such person. It makes provisions that such action would be required to be taken within thirty days from the date of order of the Appellate Authority if appeal is filed and it is rejected by the Appellate Authority; and within thirty days from the lapse of appeal period specified in sub-section (1) of section 6B, if appeal is not filed. It would be imperative to note the amended provisions which read thus:-

Section 6B. Appeal against order of Scrutiny Committee: (1) Any person aggrieved by an order of the Scrutiny Committee under section 6, 6A or 7 may, within ninety days from the date of receipt of such order, file an appeal before the Appellate Authority, as specified by the Government, by notification in the Official Gazette.

(2) The Appellate Authority shall within a period of three months from the date of receipt of an appeal and after giving the appellant an opportunity of being heard pass such orders as it deems fit.

(3) The order passed by the Appellate Authority under this section shall be final and shall not be challenged before any authority or court, except the High Court under article 226 of the Constitution of India.

Section 10 Benefits secured on the basis of false Caste Certificate to be withdrawn.

²[1] Whoever not being a person belonging to any of the Scheduled castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category secures admission in any educational institution against a seat reserved for such Castes, Tribes or Classes, or secures any appointment in the Government, local authority or in any other Company or Corporation, owned or controlled by the Government or in any Government aided institution or Co-operative Society against a post reserved for such Castes, Tribes or Classes by producing a false Caste Certificate / fake Caste Certificate shall, on cancellation of the Caste Certificate by the Scrutiny Committee, be liable to be debarred from the concerned educational institution, or as the case may be, discharged from the said employment forthwith and any other benefits enjoyed or derived by virtue of such admission or appointment by such person as aforesaid shall be withdrawn forthwith.

(2) Any amount paid to such person by the Government or any other agency by way of scholarship, grant, allowance or other financial benefit shall be

2 Amended by Amendment Act No. XXXVIII of 2026

recovered from such person as an arrear of land revenue.

(3) Notwithstanding anything contained in any Act for the time being in force, any Degree, Diploma or any other educational qualification acquired by such person after securing admission in any educational institution on the basis of a Caste Certificate which is subsequently proved to be fake or false shall also stand cancelled, on cancellation of such Caste Certificate, by the Scrutiny Committee.

(4) Notwithstanding anything contained in any law for the time being in force, a person shall be disqualified for being a member of any statutory body if he has contested the election for local authority, Co-operative Society or any statutory body on the seat reserved for any of the Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category by procuring a fake Caste Certificate or false Caste Certificate as belonging to such Caste, Tribe or Class on such fake Caste Certificate or false Caste Certificate being cancelled by the Scrutiny Committee, and any benefits obtained by such person shall be recoverable as arrears of land revenue and the election of such person shall be deemed to have been terminated retrospectively.

(5) After Caste Certificate has been cancelled and confiscated by the Scrutiny Committee, the concerned Appointing Authority, Local Authority, Government, Educational Institution, Statutory Body or Agency shall take action for withdrawal of benefits given to such person,—

(a) within thirty days from the date of order of the Appellate Authority if appeal is filed, and it is rejected by the Appellate Authority;

(b) within thirty days from the lapse of appeal period specified in sub-section (1) of section 6B, if appeal is not filed.];

(emphasis supplied)

10. Having noted the aforesaid provisions, we may observe that in the present case, the Caste Scrutiny Committee has taken a decision by an order dated 20 August 2026 rejecting the petitioner's claim for validity of the Caste Certificate. Admittedly, such order has been passed after the provisions of the Amended Act (Maharashtra Act XXXVIII of 2026.) were brought into force as noted by us hereinabove. Even in the order dated 20 August 2026 passed by the Caste Scrutiny Committee in paragraph 4 of the operative part of the order, the provisions of Section 6B are recognised when it has been stated that an appeal against the said order would be available to the petitioner under Section 6B of the 2000 Act, to be filed within a period of 90 days from the date of the said order

before Divisional Commissioner, Konkan Division.

11. It is the petitioner's case that the petitioner has, accordingly, approached the appellate authority i.e. the Divisional Commissioner, Konkan Division. Such appeal was filed by the petitioner along with the stay application on 31 August 2026. A copy of the appeal memo alongwith the stay application are annexed to the Writ Petition's paperbook.

12. On perusal of the prayers as made in the stay application, it is seen that the petitioner has prayed for stay of the order dated 20 August 2026 passed by the Caste Scrutiny Committee invalidating the petitioner's caste claim, under the certificate issued by the Sub Divisional Officer, of the petitioner's belonging to the Other Backward Class (OBC). We also find that there is a specific prayer made in the Stay/Interim Application, filed by the petitioner in the said appeal, that the communication(s) as impugned in the present petition, issued by the Municipal Commissioner dated 25 August 2026 be also stayed. The prayers as made by the petitioner in the Interim Application are required to be noted, which reads thus:

"a) Pending hearing and final disposal of the present Appeal this Hon'ble Authority be pleased to grant an ex-parte ad-interim and interim stay to the execution, operation and effect of the Impugned Order No. जा.क्र.जि.जा.प्र.प.स.पालघर/निPalghar;

b) Pending hearing and final disposal of the present Appeal this Hon'ble Authority be pleased to stay the execution, operation, and effect of the consequential Order No. MGC/F/1877 dated 25.08.2026 passed by the Brihanmumbai Municipal Corporation, and direct the immediate reinstatement of the Applicant as Corporator for Ward No. 191;

c) Pending hearing and final disposal of the present Appeal this Hon'ble Authority be pleased to stay the execution, operation, and effect of the consequential intimation letter No. MGC/F/1877 dated 25.08.2026 sent to the Additional Chief Secretary - 2, Urban Development Department regarding the 6-year disqualification of the Applicant;

d) Restrain the Brihanmumbai Municipal Corporation (BMC) and Respondent No. 2 from taking any coercive steps, initiating disqualification proceedings against the Applicant under Section 1 of the Mumbai Municipal Corporation Act, 1888, or declaring a vacancy for Ward No. 191, in strict compliance with the absolute statutory embargo mandated under Section 10(5) of the Maharashtra Caste Certificate (Amendment) Act, 2026;
(emphasis added)

13. Admittedly, such appeal and stay application are pending consideration of the Appellate Authority. It is in these circumstances on the very same day (31 August 2026) when the petitioner filed the said appeal before the appellate authority along with the stay application, the present petition appears to have been filed praying for substantive reliefs in regard to the communication dated 25 August 2026 addressed by the Municipal Commissioner. The prayers as made in the present petition are required to be noted which read thus:-

a) This Hon'ble Court be pleased to allow the Writ Petition with costs.

b) This Hon'ble Court be pleased to issue a writ of certiorari, or a writ in the nature of certiorari, or any other appropriate writ, order, or direction, calling for the records and proceedings and, after examining the legality and propriety thereof, be pleased to quash and set aside the Impugned Order No. MGC/F/1877 dated 25.08.2026 at Exhibit D passed by Respondent No. 2;

c) This Hon'ble Court be pleased to issue a writ of certiorari, or a writ in the nature of certiorari, or any other appropriate writ, order, or direction, to quash and set aside the consequential intimation letter/communication dated 25.08.2026 at Exhibit E addressed by Respondent No. 2 to Respondent No. 1 recommending the 6-year electoral disqualification of the Petitioner and the consequent gazette notification if any;

d) This Hon'ble Court be pleased to issue a writ of mandamus, or a writ in the nature of mandamus, directing the Respondents to forthwith reinstate the Petitioner as the elected Corporator for Ward No. 191 of the Brihanmumbai Municipal Corporation, restoring all consequential statutory benefits, privileges, and duties and also further till a period of 30 days from the date of order in Appeal if the Appeal is rejected by the Appellate Authority;

e) Pending the hearing and final disposal of this Writ Petition, this Hon'ble Court be pleased to stay the execution, operation, and effect of the Impugned Order No. MGC/F/1877 dated 25.08.2026 at Exhibit - D passed by Respondent No. 2;

f) Pending the hearing and final disposal of this Writ Petition, this Hon'ble Court be pleased to stay the execution, operation, and effect of the intimation letter dated 25.08.2026 at Exhibit - E, and explicitly restrain Respondent No. 1 from publishing any Official Gazette notification disqualifying the Petitioner for six years;

g) Pending the hearing and final disposal of this Writ Petition, this Hon'ble Court be pleased to restrain Respondent No. 2 from taking any coercive steps, initiating disqualification proceedings, or declaring a vacancy for Ward No. 191, in strict compliance with the absolute statutory embargo mandated under Section 10(5) of the Maharashtra Caste Certificate (Amendment) Act, 2026;

h) Pending hearing and final disposal of the present Petition and the Appeal this Hon'ble Court be pleased to grant stay to the execution, operation and effect of the Impugned Order No. जा.क्र.जि.जा.प्र.प.स. पालघर/निवडणूक प्रकरण / क्र. २६२ / २०२६ / २०२६-२७/१३४५ dated 20.08.2026 at Exhibit A passed by Respondent No. 3, District Caste Certificate Scrutiny Committee, Palghar;

i) Grant ad-interim reliefs in terms of prayer clauses (e), (f), (g), and (h) above;

j) Pass any such other and further reliefs as the nature and circumstances of the case may require, and as this Hon'ble Court deems fit and proper to meet the ends of justice.

(emphasis supplied)

14. We find that in prayer clause (d) (supra), the petitioner has categorically prayed that the petitioner be forthwith reinstated as the elected Corporator.

15. Mr. Surel Shah, learned Senior Counsel appearing for the petitioner would submit that the impugned communication(s) dated 25 August 2026 issued by the Municipal Commissioner to the petitioner, as also, addressed to the State Government in purported invocation of Section 16(1C)(a) and (b) of the MMC Act, is arbitrary and illegal, inasmuch as such communication does not take into consideration the substantive right of an appeal as provided to the petitioner by virtue of Section 6B of the said 2000 Act, as incorporated by the Maharashtra Amendment Act XXXVIII of 2026. It is submitted that coupled with the provisions of Section 6B of the 2000 Act, also a substantive provision has been

incorporated in Section 10 by incorporating sub-section (5)(a) & (b) which specifically dealing in regard to an action to be taken of withdrawal of the benefits, in the event the Caste Scrutiny Committee cancelled and confiscated the caste certificate. It is submitted that such action would be required to be taken only in accordance with clauses (a) and (b) of sub-section (5) and not otherwise. In such context Mr. Shah has drawn our attention to the operative orders which are passed by the Caste Scrutiny Committee invalidating the caste claim of the petitioner, to contend that the caste certificate dated 19 December 2025, issued in favour of the petitioner has not been invalidated on the ground that a fraud is practised by the petitioner in obtaining the Caste Certificate, but it has been invalidated on the ground that the Competent Authority namely Sub Divisional Officer (SDO) who had issued the caste certificate dated 19 December 2025 in favour of the petitioner, was not the Competent Authority, as the relatives of the petitioner were not the residents within the jurisdiction of the Competent Authority, so as to confer jurisdiction with the SDO to issue the caste certificate. The operative part of the orders dated 20 August 2026 passed by the Caste Scrutiny Committee are required to be noted which reads thus:-

“(Official Translation)

ORDER

1. The Caste Certificate bearing No.41636350840, dated 19.12.2025, issued by the Sub-Divisional Officer and Sub-Divisional Magistrate, Palghar, to the applicant, is hereby cancelled, as it has been proved that the said Authority is not competent to issue the said certificate. The Applicant is hereby directed to apply, along with the necessary proofs, to the Competent Authority within whose jurisdiction the Applicant's paternal family was residing as on the deemed date i.e. before the said Competent Authority (Mumbai City).

2. On the basis of the affidavit and other documents produced by the Applicant along with the application submitted for obtaining a Kunbi Caste Validity Certificate, the Applicant has failed to establish the blood relationship between the Applicant and the holders of the Kunbi Caste Validity

Certificates.

3. The Applicant should deposit the Caste Certificate bearing No. 41636350840 dated 19.12.2025, issued to the Applicant by the Sub-Divisional Officer and Sub-Divisional Magistrate, Palghar with the office of the Committee, within 15 days from the date of receipt of the present order.

4. An appeal against the present order may be preferred before the Divisional Commissioner, Konkan Division, under Section 6-B of the Maharashtra Scheduled Castes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, within ninety days from the date of receipt of the said order.

This order has been prepared by Shri Pandurang Wable, the Member - Secretary of the Committee and the Chairperson and the Members of the Committee concur with the same.

Place : Palghar

Date : 20.08.2026

Sd/-

(Pandurang Wable)

Copy to :

1) Smt. Vishakha Moreshwar Rawool.

2) Smt. (Illegible) Sadanand Sarawankar

3) Sub-Divisional Officer and Sub-Divisional Magistrate, Palghar.

sd/-

Issued by

Pandurang Wable,

Member Secretary”

16. Mr. Shah would submit that necessarily the provisions of sub-section 5(b) of Section 10 would become applicable in the facts of the present case, hence, only after the period of 30 days from the lapse of the appeal period, as specified in sub-clause (b) of Section 6B expires, only then the local authority / municipal corporation can take an action for withdrawal of the benefits given to such person. It is therefore Mr. Shah's submission that the impugned communication(s) dated 25 August 2026 (Exhibit D and Exhibit E to the petition) are in the teeth of the provisions of sub-section 5(b) of Section 10 of the 2000 Act. It is hence, his submission that considering the said provisions, the Municipal Commissioner had

no jurisdiction to issue the impugned communication(s) before expiry of the specific period as provided in clause (b) of sub-section (5) which, according to Mr. Shah, admittedly had not expired, inasmuch as the Caste Scrutiny Committee had passed the order invalidating the petitioner's caste certificate on 20 August 2026. Mr. Shah submits that by virtue of provisions of Section 6B (supra) the period of 90 days was available to the petitioner to file an appeal before the Appellate Authority, which in fact was filed earlier (on 31 August 2026) before the expiry of such period, hence, once such appeal was filed along with the stay application, the Municipal Commissioner was required to adhere to the mandate of the provisions of clause (b) of sub-section (5) of Section 10, before the impugned communication(s) were issued. It is, therefore, his submission that the impugned order is required to be quashed and set aside.

17. Even on merits of the order passed by the Caste Scrutiny Committee, Mr. Shah would submit that this is not the case where any findings are recorded by the Committee that the Caste Certificate was fraudulently obtained by the petitioner, and in the absence of any such observations made in the said order, certainly it was not open to the Municipal Commissioner to assume any jurisdiction under the provisions of Section 16(1C)(a) of the MMC Act, on an assumed disqualification. Mr. Shah's contention is that the recourse to the provision of Section 16(1C)(a) of the MMC Act was certainly not available to be exercised by the Municipal Commissioner by issuance of the impugned communication(s) dated 25 August 2026. It is his submission that the provisions of Section 6B read with Section 10(5) are procedural provisions and would have retrospective

operation, placing reliance on the decision of the Supreme Court in **Neena Aneja & Anr. Vs. Jai Prakash Associates Ltd.**³

18. On the other hand, learned Counsel for the Municipal Commissioner has supported the impugned order passed by the Municipal Corporation. He would submit that the impugned communication has been validly issued and more particularly considering the mandate of Section 16(1C)(a) and (b) of the MMC Act, which according to him, would bring about a legal effect of the petitioner being deemed to have been disqualified on invalidation of the petitioner's caste certificate, by virtue of the order dated 20 August 2026 passed by the Caste Scrutiny Committee. He has referred to the provisions of Section 16(1C)(a) as also the provisions of Section 5B of the MMC Act (supra) to support his contentions. Considering such provisions, it is submitted that the petitioner's contention that the Municipal Commissioner had no jurisdiction to issue the impugned communication(s), is not tenable. He submits that in any event, the petitioner cannot contend that no legal consequence(s) have occurred, qua the petitioner's position as an elected Corporator by virtue of the orders passed by the Caste Scrutiny Committee dated 20 August 2026, invalidating the petitioner's caste certificate.

19. Mr. Pai, learned Senior Counsel appearing for Respondent No.5 has opposed this petition by referring to the provisions of the 2000 Act as also the provisions of the MMC Act. Mr. Pai would submit that operation of the provisions of Section 10 of the 2000 Act, insofar as the benefits secured on the basis of the false certificate stand withdrawn, are clear. He has referred to the

3 2022(2) SCC 161

provisions of sub-section (4) to submit that the provisions begin with a *non-obstante* clause, providing for an overriding effect, on any law for the time being in force, to provide that a person shall be disqualified for being a member of any statutory body if he has contested the election for local authority, (as in the present case) etc., on a seat reserved for any of the Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category, by procuring a false Caste Certificate, as belonging to such caste, tribe or class on such false Caste Certificate, being cancelled by the Scrutiny Committee, and accordingly, any benefits obtained by such person shall be recoverable as arrears of land revenue, and the election of such person shall be deemed to have been terminated retrospectively. It is submitted that sub-section (4) in no manner has undergone any amendment although sub-section (5) has been incorporated by the Maharashtra Amendment Act No.XXXVIII of 2026 by incorporating the provision of sub-section (5) which provides in regard to the legal effect which would be brought about by cancellation and confiscation of the Caste Certificate under the orders of the Caste Scrutiny Committee, on the benefits of such person being withdrawn as provided in clause (a) and (b) of sub-section (5). It is his submission that such provision is required to be considered to be independent which does not affect the operation of the provisions of Section 16(1C)(a) of the MMC Act. It is hence, submitted that the legal effect as brought about by the Caste Scrutiny Committee passing an order invalidating the caste certificate of the petitioner was of automatic deemed disqualification. Hence, the petitioner would not be correct in

her contention that the Municipal Commissioner had no jurisdiction and/or the impugned communication in any manner is illegal or arbitrary. In supporting his submission, Mr. Pai has placed reliance on the decision of the Full Bench of this Court in **Sujit Vasant Patil vs State Of Maharashtra And Ors.**⁴ wherein the Full Bench has held that once the scrutiny committee refuses to issue a validity certificate the nomination cannot survive and if the nomination cannot survive, election cannot survive, and hence, cancellation of the election of such a candidate is a natural consequence of his caste certificate being found invalid. Mr. Pai has also placed reliance on the order passed by the Division Bench of this Court in **Mr. Ashutosh s/o Shivajirao Amberao vs. State of Maharashtra**⁵, wherein the Division Bench in considering the provisions of Section 6B of the 2000 Act has held that the provision is prospective in operation referring to the principles of law. It is, therefore, Mr. Pai's contention that the impugned orders are required to be held to be legal and valid.

Analysis

20. Having heard learned Counsel for the parties and having perused the record as also the submissions as urged before us, the question which would fall for our determination is 'whether the Municipal Commissioner in issuing the impugned communication(s) dated 25 August 2026 has acted in accordance with law and/or had jurisdiction to issue such communication(s).'

21. At the outset, we find that the impugned communication has been issued

4 2004(3)MHLJ1109

5 Writ Petition No.10108 of 2026 decision dt. 13/08/2026.(Aurangabad Bench)

by the Municipal Commissioner invoking the provisions of Section 16(1C)(a) & (b) of the MMC Act, which *inter alia* provides for “*Disqualifications for being a Councillor*”. Sub-section (1) thereof provides that “*a person shall be disqualified for being elected and for being a councilor if such person inter alia has been so disqualified by or under any law, for the time being in force for the purpose of elections to the Legislature of the State; and secondly, he shall also be so disqualified under any law made by the Legislature of the State of Maharashtra.* The provision which is specifically invoked is the provision of sub-section (1C)(a) & (b) of Section 16, which provides that a Councillor who has been elected to a reserved seat, who stands disqualified, consequent upon the concerned Scrutiny Committee constituted under the provisions of Section 6 of the 2000 Act declaring the Caste Certificate of such Councillor to be invalid and cancelling the same, on the ground of the same having been based on a false claim or declaration made by such person, claiming to belong to the reserved category, and thereupon, the Councillor “shall be deemed to have”, vacated his office on and from the date of declaration of such Certificate to be invalid and being cancelled by the Scrutiny Committee or by the competent authority. Section 16(1) and the relevant provision being sub-section (1C)(a) and (b) of the MMC Act are required to be noted, which reads thus:

16. Disqualifications for being a councillor

- (1) A person shall be disqualified for being elected and for being a councillor if such person -
 - (a-1) has been disqualified by or under any law -
 - (i) for the time being in force for the purpose of elections to the Legislature of the State.

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained

the age of twenty one years.

(ii) made by the Legislature of the State of Maharashtra.

.....

(1C) (a) Notwithstanding anything contained in sub-section (1B), a Councillor who has been elected to a reserved seat as mentioned in subsection (1B), shall be disqualified for being such Councillor consequent upon the concerned Scrutiny Committee constituted under subsection (1) of section 6 of the 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 or any other competent authority specified by the State Government for the purpose of scrutiny of the Caste Certificates, declaring the Caste Certificate of such Councillor to be invalid and cancelling the same, on the ground of the same having been based on a false claim or declaration made by such person claiming to be belonging to the reserved category, and thereupon the Councillor shall be deemed to have vacated his office on and from the date of declaration of such Certificate to be invalid and cancellation of the same by the said Scrutiny Committee or by the competent authority.

(b) On any person having been disqualified for being a Councillor and consequently, his seat as such Councillor having become vacant under clause (a), the State Government shall, by notification in the Official Gazette, disqualify such person for being elected or being a Councillor for a period of six years from the date of such order.”

22. Thus, sub-section(1C)(a) of Section 16 of the MMC Act in the context of Caste Scrutiny Committee declaring the Caste Certificate of the Councillor to be invalid, stipulates a deeming effect, namely, that in such eventuality, the Councillor shall be deemed to have vacated his office on and from the date of declaration of the Caste Certificate as invalid and cancelled by the Scrutiny Committee. Sub-section (1C)(b) provides that on any person having been disqualified as a Councillor, consequently, his seat as Councillor having become vacant as a consequence of clause (a) of sub-section (1C), the State Government, shall by notification in the Official Gazette, disqualify such person for being elected or being a Councillor for a period of six years from the date of such order.

Thus, clause (b) of sub-section (1C) is a consequence of what is provided for in clause (a) of sub-section (1C). It is this provision which has been invoked by the Municipal Commissioner while issuing the impugned communication(s).

23. The contention as urged on behalf of the petitioner is, however, to the effect that the provisions of sub-section (1C) (a) and (b) of Section 16 of the MMC Act were not available to be invoked by the Municipal Commissioner considering the amendment as incorporated to the 2000 Act by Maharashtra Act No. XXXVIII of 2026 by incorporating the provisions of Section 6B providing for an "Appeal against the order of the Scrutiny Committee", with an amendment as brought about in Section 10 by incorporating sub-section (5) inter-alia providing for actions which can be taken in terms of clauses (a) and (b) of sub-section (5) providing the prescribed limitation for action to be taken for withdrawal of the benefits given to any persons whose Caste Certificate has been invalidated by the Caste Scrutiny Committee. Thus, the contention is that once the provisions of Section 6B of the 2000 Act, providing for an appeal against the order passed by the Caste Scrutiny Committee were available, to the Petitioner as a necessary corollary, the provisions of sub-section (5) of Section 10 of the 2000 Act, incorporated by the said Amendment Act were required to be adhered by the Municipal Commissioner, and it is only after taking into consideration such provisions, recourse to the provisions of Section 10 (4) of the 2000 Act and/or the provisions of Section 16(1C)(a) and (b) could have been taken and not otherwise.

24. Such contention as urged by Mr. Shah, at the first blush, appears to be attractive, however, a deeper scrutiny of the said provisions would not permit us

to accept such contention of Mr. Shah. The following discussions would throw light on the legal consequences as may be brought about.

25. Section 10 of the 2000 Act provides for “Benefits secured on the basis of false Caste Certificate to be withdrawn”. Sub-section (4) of Section 10 begins with a non-obstante clause providing that ‘Notwithstanding anything contained in any law for the time being in force, a person shall be disqualified for being a member of any statutory body if he has contested the election for local authority, co-operative society or any statutory body *inter alia* on reserved seat reserved for any of Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category by procuring a false Caste Certificate as belonging to such Caste, Tribe or Class on such false Caste Certificate being cancelled by the Scrutiny Committee, and by virtue of such cancellation any benefits obtained by such person shall be recoverable as arrears of land revenue and the election of such person “shall be deemed” to have been terminated retrospectively. We find that by incorporating sub-section (5) by the Amendment Act XXXVIII of 2026 (with effect from 22 July, 2026), the Legislature has not in any manner disturbed the provisions of sub-section (4) and more particularly, when it ordains an overriding effect in respect to any other law for the time being in force, so as to bring about a situation that election of such person “shall be deemed” to have been terminated retrospectively, i.e., on the date on which the person contested the election. In the context of what is provided by sub-section (4) of Section 10 of the 2000 Act if the provisions of sub-section (5) are seen, such deeming effect which is brought about

by sub-section (4) that the election of such person “shall be deemed” to have been terminated retrospectively, have remained undisturbed/untouched inasmuch as sub-section (5) of Section 10 speaks about the action for withdrawal of the benefits given to such person and it is only in the context of such benefits, clauses (a) and (b) of sub-section (5) are required to be read and not otherwise, so as to obliterate the deemed disqualification.

26. Once such is the effect as brought about by the provisions of sub-section (4) of Section 10, which remains unaffected by the amendment brought about by incorporation of sub-section (5)(a) and (b), the consequence is not too far to be seen, namely, that in the present case the petitioner’s caste certificate having been declared to be invalid by the Caste Scrutiny Committee on 20 August, 2026, necessarily the petitioner’s election is “deemed to have” been terminated retrospectively. Merely because, clause (b) of sub-section (5) provides for a limitation of thirty days from the lapse of the appeal period for withdrawal of the “benefits”, in our opinion, the said provision would not dilute or extinguish or affect, in any manner, the deeming effect as brought about by the provisions of sub-section (4) of Section 10 of the 2000 Act.

27. Having considered the provisions of the 2000 Act, we now advert on the provisions of Section 16 of the MMC Act, which have been invoked by the Municipal Commissioner in addressing the impugned communication(s).

28. As noted herein above, Section 16 is an independent provision under the MMC Act providing for ‘disqualification for being a Councilor’. Sub-section (1C) (a) of Section 16⁶ of the MMC Act is the relevant provision, as invoked by the

6 Sub-Sections (1B) & (1C) were re-inserted by Mah. 43 of 2015, dt. 31-12-2015

Municipal Commissioner. The purport of which appears to us is not different from what has been provided for under Section 10 (4) of the 2000 Act. Sub-section (1C)(a) categorically provides that a Councilor who has been elected to a reserved seat as mentioned in sub-section (1B) shall be disqualified for being a Councilor consequent upon the concerned Scrutiny Committee constituted under sub-section (1) of section 6 of the 2000 Act, declaring the Caste Certificate of such Councilor to be invalid and canceling the same, on the ground of the same being based on a false claim or declaration made by such a person claiming to belong to the reserved category, and thereupon the Councilor shall be 'deemed' to have vacated his office on and from the date of declaration of such Certificate to be invalid and canceled by the said Scrutiny Committee or by the competent authority. Thus, this is the second "deeming provision" when it comes to the election in addition to what has been provided under Sub section (4) of section 10 of the 2000 Act. Thus by virtue of Section 16 of the MMC Act, the Councilor is deemed to have vacated his office from the date of declaration of the Caste Certificate to be declared invalid by the Caste Scrutiny Committee. As noted herein above, clause (b) of Section 16 (1C) is consequential, providing that the State Government would be required to issue appropriate notification in the Official Gazette disqualifying such person for being elected or being a Councilor for a period of six years from the date of such order.

29. If there are provisions which are invoked by the Municipal Commissioner merely because there is a provision for an appeal under Section 6B of the 2000 Act (supra), for that matter sub-section 5 being incorporated in Section 10

(supra), there is no gainsaying that sub-section (1C) (a)(b) of Section 16 would cease to operate and/or the deeming effect which is provided for under sub-section (1C)(a) of Section 16 would stand deferred in view of the provisions of clause (a) and (b) of sub-section (5) of Section 10 of the 2000 Act. This is what is sought to be contended on behalf of the petitioner, that the provision of Section 16 (1C) of the MMC Act cannot be invoked in the teeth of what has been provided for in clauses (a) and (b) of sub-section (5) of Section 10. Such contentions, on a plain reading of the aforesaid provision and for the reasons as discussed herein above, are misconceived, hence, unacceptable. The legislature in providing for an amendment of the 2000 Act, by incorporating sub-section (5) in Section 10, certainly was conscious of the consequences of the two fold situations; firstly, sub-section (4) of Section 10 providing for a deeming effect, of bringing about a disqualification in the manner as provided, namely, that election of such person, whose caste certificate has been invalidated, shall be deemed to have terminated retrospectively; and secondly, sub-section (4) of Section 10 was a provision having an overriding effect on any law for the time being in force. The legislature was also not oblivious to the specific provisions of Section 16(1C) (a) and (b) of the MMC Act, which contemplated a similar effect providing for disqualification of an elected councilor in the event the caste certificate is invalidated by the Scrutiny Committee. No amendment was made to the MMC Act to dilute and/or to take away the effect of what has been provided for in Section 16(1C) (a) and (b). For such reasons, we are not inclined to accept the case of the petitioner that the Municipal Commissioner had no authority to issue

the impugned communications, which, in our opinion, clearly flows from the provisions of Section 16(1C) (a) and (b) of the MMC Act.

30. Now coming to the next contention as urged by Mr. Shah, namely, that it is clear from the order passed by the Caste Scrutiny Committee that the Caste Certificate has not been invalidated on the ground of the petitioner having practiced fraud, but on the ground of lack of jurisdiction of the competent authority in issuing the Caste Certificate to the Petitioner, and hence, the provisions of sub-section (4) of Section 10 as also the provisions of Section 16(1C) were not available to be invoked, in any manner whatsoever. Such contention, in our opinion, cannot be accepted on a plain reading of the order dated 20 August 2026 passed by the Caste Scrutiny Committee, as the Caste Scrutiny Committee has also examined the merits of the petitioner's case, as clearly seen from the discussion in paragraph 6.2.2 to 6.2.5 of the order passed by the Caste Scrutiny Committee invalidating the Caste Certificate issued to the Petitioner. Such observations are required to be read in the context of the operative paragraph 2 of the said order (supra), which concludes that the petitioner was unable to prove her case for grant of validity of her caste certificate, on the basis of the affidavit and documents submitted by her. Thus, necessarily, it is a case that the claim of the petitioner for grant of validity to the caste certificate firstly cannot be proven hence, necessarily the Caste Certificate accordingly was obtained on an incorrect claim of the Petitioner, or in other words, it was a "false caste certificate" based on an incorrect claim. As in our clear opinion, once sub-

section (4) of Section 10 uses the words ‘false⁷ Caste Certificate’, it would mean that the certificate, which was issued by the competent authority, was not a correct certificate. Thus, once a Caste Certificate is declared as a false certificate, when tested on materials, it would not be tenable for the petitioner to contend that merely because the Caste Scrutiny Committee, failing to observe that the caste certificate was obtained by exercise of fraudulent means, sub-section (4) of Section 10 of the 2000 Act or Section 16(1C) of the MMC Act would not be attracted. This would be erroneous reading of sub-section (4) of Section 10 and Section 16 (1C) (a) and (b) of the MMC Act, as these provisions do not incorporate the word ‘fraud’, when these provisions specifically uses the words ‘false’. In this view of the matter, the petitioner’s case of there being no fraud employed by the petitioner in obtaining the caste certificate, would certainly not assist the petitioner.

31. We now come to the next leg of Mr. Shah’s submission, that Section 6B would be a procedural provision and hence, once the provision of appeal is provided, the provision of Clauses (a) and (b) of Sub-Section 5 as incorporated in Section 10 of the 2000 Act, would be required to be given some meaning, and thus, necessarily the benefit of period of 30 days from the lapse of appeal period specified in sub-section (1) of Section 6B, if the appeal is not filed, would enure to the benefit of the petitioner, before withdrawal of any benefits given to the

7 “false, fals, a. falser, falsest. [L. falsus, feigned, spurious, deceptive, false, pp. of fallere, deceive.] Contrary to what is true or correct; erroneous, mistaken, untrue, or incorrect; uttering or declaring what is untrue; deceitful, treacherous, or faithless; deceptive; as, false appearances; not genuine; counterfeit or artificial; employed to deceive or mislead; mus. inaccurate in pitch; as, a false note; biol. having a deceptive resemblance to something that properly bears the name; as, the false Solomon’s-seal; substituted for or supple- menting, esp. temporarily.-adv. In a false manner; incorrectly or wrongly; treacher- ously or faithlessly. -falsely, adv. false- ness, n.”

New Webster’s Dictionary, Deluxe Encyclopedic Edition, 1981, Page No. 354

petitioner. We are not persuaded to accept such submission for the reasons which we have set out herein above. We have already observed that the deeming effect of invalidity of the Caste Certificate i.e., the Caste Certificate of the petitioner being declared to be false, the legal consequence is to the effect that the petitioner's election is rendered invalid by virtue of such order being passed by the Caste Scrutiny Committee on 20 August, 2026, and now such invalidity in fact travels to the date on which the petitioner filled the nomination form to contest the election on the reserved seat.

32. We may observe that even assuming that Section 6B read with sub-section (5) of Section 10 is procedural as noted hereinabove, it does not disturb the legal effect of disqualification which has been incurred by the petitioner by virtue of the provisions of Section 16(1C)(a) of the MMC Act read with Section 10(4) of the 2000 Act. We are, therefore, not inclined to accept the petitioner's case relying on the decision of the Supreme Court in **Neena Aneja & Anr.** (supra), as there cannot be any doubt in regard to the proposition as canvassed on behalf of the petitioner and as observed in paragraphs 72 and 83 of the said decision, however, certainly in the facts of the present case, such proposition canvassed on behalf of the petitioner is not attracted. Paragraphs 72 and 83 of the said decision read thus:

72. In considering the myriad precedents that have interpreted the impact of a change in forum on pending proceedings and retrospectivity—a clear position of law has emerged : a change in forum lies in the realm of procedure. Accordingly, in compliance with the tenets of statutory interpretation applicable to procedural law, amendments on matters of procedure are retrospective, unless a contrary intention emerges from the statute.

“21. ... no litigant has any vested right in the matter of procedural law but where the question is of change of forum it ceases to be a question of procedure only. The forum of appeal or proceedings is a vested right

as opposed to pure procedure to be followed before a particular forum. The right becomes vested when the proceedings are initiated in the tribunal.”

(emphasis supplied)

In taking this view, the two-Judge Bench did not consider binding decisions. *Dhadi Sahu* [*CIT v. Dhadi Sahu*, 1994 Supp (1) SCC 257] failed to consider that the saving of pending proceedings in *Mohd. Idris* [*Mohd. Idris v. Sat Narain*, (1966) 3 SCR 15 : AIR 1966 SC 1499] and *Manujendra Dutt* [*Manujendra Dutt v. Purnedu Prosad Roy Chowdhury*, (1967) 1 SCR 475 : AIR 1967 SC 1419] was a saving of vested rights of the litigants that were being impacted by the repealing Acts therein, and not because a right to forum is accrued once proceedings have been initiated. Thereafter, a line of decisions followed *Dhadi Sahu* [*CIT v. Dhadi Sahu*, 1994 Supp (1) SCC 257], to hold that a litigant has a crystallised right to a forum once proceedings have been initiated. A litigant's vested rights (including the right to an appeal) prior to the amendment or repeal are undoubtedly saved, in addition to substantive rights envisaged under Section 6 of the General Clauses Act. This protection does not extend to pure matters of procedure. Repeals or amendments that effect changes in forum would ordinarily affect pending proceedings, unless a contrary intention appears from the repealing or amending statute.

83. Having stated the above position, we need to harmonise it with the principle that the right to a forum is not an accrued right, as discussed in *Part C* of this judgment. Simply put, while Section 6(e) of the General Clauses Act protects the pending legal proceedings for the enforcement of an accrued right from the effect of a repeal, this does not mean that the legal proceedings at a particular forum are saved from the effects from the repeal. The question whether the pending legal proceedings are required to be transferred to the newly created forum by virtue of the repeal would still persist. As discussed, this Court in *New India Assurance* [*New India Assurance Co. Ltd. v. Shanti Misra*, (1975) 2 SCC 840] and *Maria Cristina* [*Maria Cristina De Souza Sodder v. Amria Zurana Pereira Pinto*, (1979) 1 SCC 92] has held that forum is a matter pertaining to procedural law and therefore the litigant has to pursue the legal proceedings at the forum created by the repealing Act, *unless a contrary intention appears*. This principle would also apply to pending proceedings, as observed in *Ramesh Kumar Soni* [*Ramesh Kumar Soni v. State of M.P.*, (2013) 14 SCC 696 : (2014) 4 SCC (Cri) 340], *Hitendra Vishnu Thakur* [*Hitendra Vishnu Thakur v. State of Maharashtra*, (1994) 4 SCC 602 : 1994 SCC (Cri) 1087] and *Sudhir G. Angur* [*Sudhir G. Angur v. M. Sanjeev*, (2006) 1 SCC 141]. In this backdrop, what is relevant to ascertain is whether a contrary intent to the general rule of retrospectivity has been expressed under the 2019 Act to continue the proceedings at the older forum.

33. In fact the aforesaid observations as made by the Supreme Court fortifies our view of the petitioner having suffered a disqualification being not disturbed by the said amended provisions of the 2000 Act.

34. The Supreme Court in the **Chairman and Managing Director, Food**

Corporation of India & Ors. vs. Jagdish Balaram Bahira & Ors.⁸ has taken a review of the legal precedents in regard to the effect which would be brought about once the Caste Certificate is invalidated by the Caste Scrutiny Committee. The conclusions of the said decision are recorded in paragraph 69 of the said decision, in which referring to the decisions in **Madhuri Patil vs. Commr. Tribal Development**⁹, **R. Vishwanatha Pillai vs. State of Kerala**¹⁰ and **Union of India vs. Dattatray**¹¹, the Supreme Court has held that where a benefit is secured by an individual on the basis, that the candidate belongs to a reserved category for which the benefit is reserved, the invalidation of the caste or tribe claim upon verification would result in the appointment or, as the case may be, the admission being rendered void or *non est*. It was observed that withdrawal of benefits secured on the basis of a caste claim which has been found to be false necessarily brings about a consequence which flows from the invalidation of the caste claim and no issue of retrospectivity would arise. Considering such clear position in law, we find ourselves in agreement with Mr. Pai in relying on the decision of the Full Bench of this Court in **Sujit Vasant Patil** (supra) wherein the Full bench has categorically held, as to what are the consequences, which would be brought about once the Scrutiny Committee refuses to issue a validity certificate to the Caste Certificate to the candidates, that the nomination itself would not survive and if the nomination would not survive, election cannot survive. It was held that cancellation of the election of such a candidate is a natural consequence of his

8(2017) 8 SCC 670

9(1994) 6 SCC 241

10(2004) 2 SCC 105

11(2008) 4 SCC 612

caste certificate being found to be invalid. The following observations of the Full Bench are required to be noted, which reads thus:

“12-A. Thus, the scheme of the various Local Self-Government Act in relation to the filing of the nomination papers and their scrutiny and the scheme of the Maharashtra Act No. XXIII of 2001 appears to be that in case a person desires to contest an election to a reserved seat, it is obligatory on his part to get a caste certificate from the competent authority and then immediately apply to the Scrutiny Committee to get a validity certificate. Therefore, normally as the candidate is required to make an application to the scrutiny committee as soon as he receives a caste certificate from the competent authority, with the result that in many cases his application before the scrutiny committee for validity certificate would be pending when his nomination paper is accepted on the basis of the caste certificate. If his nomination paper is accepted on the basis of caste certificate issued by the competent authority and as the caste certificate itself is valid subject to the grant of validity certificate, obviously acceptance of his nomination paper as valid will also be subject to the grant of validity certificate by the scrutiny committee. **Therefore, once the scrutiny committee refuses to issue a validity certificate the nomination cannot survive and if the nomination cannot survive, election cannot survive. Therefore, cancellation of the election of such a candidate is a natural consequence of his caste certificate being found invalid.”**

(emphasis supplied)

35. We may also usefully refer to the decision of the Supreme Court in **Kalpana Dilip Bahirat vs. Pune Municipal Corporation & Ors.**¹² whereby the provisions of Section 10(4) of 2000 Act fell for consideration of the Supreme Court. In the said case, the appellant contested the elections of Pune Municipal Corporation held in December 2011 to a seat reserved for Other Backward Classes. The appellant had filed proof of her caste under a caste validity certificate dated 3 July, 2008 issued by the Competent Authority. Subsequently, the Caste Certificate on the basis of which the appellant had contested the election was revealed to have never been issued and the Caste Scrutiny Committee passed an order holding that the appellant had not submitted a genuine caste certificate and as a consequence thereof, her election was declared to be *abinitio* null and void.

12(2014) 15 SCC 654

The elected seat has become vacant retrospectively. A challenge was mounted by the appellant before this Court to the disqualification, which was not successful. In these circumstances, the proceedings reached the Supreme Court. The Supreme Court considering the provisions of sub-section (4) of Section 10 of the 2000 Act observed that by virtue of such provisions, the consequence was that the election of the person who contested election on a seat reserved for one of the reserved categories, on a false caste certificate belonging to such caste, tribe or class, shall be deemed to have been terminated retrospectively. It was observed that the deeming provision in sub-section (4) of Section 10 of the 2000 Act was a statutory fiction which was given effect to and the Commissioner of the Municipal Corporation had given effect to the deeming provision and thus acted in accordance with law. The position is not different, insofar the present proceedings are concerned. The relevant observations as made by the Supreme Court are required to be noted, which reads thus:

9. We have perused sub-section (1) of Section 10 of the 2000 Act and we find that it applies to admission to reserved seat in an educational institution and to appointment to a reserved post in the Government, local authorities, government corporations, government-aided institutions or cooperative societies and will not be attracted to the facts of the case. Instead, the consequences as provided in sub-section (4) of Section 10 of the 2000 Act will follow. Sub-section (4) of Section 10 reads:

“10. (4) Notwithstanding anything contained in any law for the time being in force, a person shall be disqualified for being a member of any statutory body if he has contested the election for local authority, cooperative society or any statutory body on the seat reserved for any of Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category by procuring a false caste certificate as belonging to such caste, tribe or class on such false caste certificate being cancelled by the Scrutiny Committee, and any benefits obtained by such person shall be recoverable as arrears of land revenue and the election of such person shall be deemed to have been terminated retrospectively.”

The consequence is that the election of a person who has contested on a seat

reserved for the aforementioned categories on false caste certificate as belonging to such caste, tribe or class “shall be deemed to have been terminated retrospectively”. The deeming provision in sub-section (4) of Section 10 of the 2000 Act is a statutory fiction which has to be given effect to and the Commissioner of the Municipal Corporation has given effect to the deeming provision and has thus acted in accordance with law.

10. Mr Mohta is right that in view of the provisions of Article 243-ZG of the Constitution, the election of a person elected to the municipality can only be called in question by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of the State and Section 16 of the 1949 Act provides for the manner in which election to any municipality can be called in question, but the opening words of sub-section (4) of Section 10 of the 2000 Act, provide that “notwithstanding anything contained in any law for the time being in force”, which obviously will also include Section 16 of the 1949 Act, the deeming provision in sub-section (4) of Section 10 of the 2000 Act will have to be given effect to and will not await the outcome of an election petition. We, therefore, maintain the order passed by the High Court for the reasons indicated in this judgment.”

36. In any event as noted by us hereinabove, the petitioner is clearly aware about the aforesaid legal position of a deemed disqualification having taken effect, considering that the petitioner has categorically prayed in prayer clause (d) (supra) that a writ of mandamus be issued to the respondent to forthwith reinstate the petitioner as elected corporator. Thus, implicit in such prayer is the clear recognition by the petitioner that the petitioner has stood disqualified by operation of the provisions of Section 10(4) of the 2000 Act read with Section 16(1C)(a) of the MMC Act. In the present circumstances, such reinstatement as prayed in prayer clause (d) cannot be granted by this Court by issuance of writ of mandamus.

37. In the light of the above discussion, we find that there is no illegality in the impugned communication(s) issued by the Municipal Commissioner. The petition lacks merits. It is accordingly rejected. No costs.

38. Needless to observe that our observations are confined to the adjudication

of the present proceedings. All contentions of the parties including that of the petitioner in the pending appeal are expressly kept open. Mr. Shah requests that the petitioner be granted liberty to approach the Appellate Authority for earlier hearing of the proceedings. This liberty is available to the petitioner. Such request be considered by the Appellate Authority.

(Dr. NEELA GOKHALE, J.)

(G. S. KULKARNI, J.)