

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.181 OF 2015

Mrs.Yogita d/o Krishnadas Ahire,
(alias) Yogita w/o Anil Wagh,
age: 33 years, Occ: service,
Resident of Ujwal Colony,
Tongaon Bhadgaon, Tq.Bhadgaon,
District Jalgaon.

Petitioner

Versus

1 The State of Maharashtra,
through the Secretary,
Urban Development Department,
Mantralaya, Mumbai-400 032.

2 The State Election Commission,
Maharashtra, Mumbai.

3 The Returning Officer,
Bhadgaon Municipal Council,
General Election-2015,
Bhadgaon, District Jalgaon.

Respondents

Mrs.Asha Rasal, holding for Mr.Girish Nagori, advocate for the petitioner.
Mr.P.P.More, A.G.P. for Respondents No.1 & 3.
Mr.S.T.Shelke, advocate for Respondent No.2.

**CORAM : R.M.BORDE &
P.R.BORA, JJ.**

DATE : 09th January, 2015

PER COURT:

1 The petitioner is raising challenge to the order passed by the Returning Officer, permitting withdrawal of candidature of the petitioner for elections to Municipal Council, Bhadgaon. The petitioner also seeks a direction to the Returning Officer to enlist her name in the final list of contesting candidates published on 05.01.2015.

2 It is the contention of the petitioner that she had tendered two nomination papers, one, as an independent candidate and another one, sponsored by a political party. The petitioner contends that she had tendered notice under Rule 17 of the Maharashtra Municipal Councils and Nagar Panchayats Election Rules, 1966, for withdrawal of her candidature as an independent candidate on 03.01.2015 at 3.05 p.m. The petitioner contends that since withdrawal of candidature relates to the nomination form tendered by her as an independent candidate, it was not permissible for the Returning Officer to strike off her name from the final list of contesting candidates. The petitioner contends that her nomination form, tendered as a candidate belonging to a political party, has been validly accepted and as such, her name ought to have been included in the final list of contesting candidates.

3 The programme of the elections to the Municipal Council refers to various stages and one of the stage, which is relevant for consideration, in the instant petition, is withdrawal of candidature. A prospective candidate, who tenders the nomination paper, is entitled to seek withdrawal of his candidature in view of Rule 17 of the Election Rules. The notice of withdrawal tendered by the petitioner is admittedly in the prescribed format provided under rule 17 of the Rules. The Rules do not make any distinction so far as withdrawal of a nomination paper, in the event the candidate tenders several nomination papers. What is expected under Rule 17 is presentation of notice seeking withdrawal of candidature. In the event, a candidate presents number of nomination papers and even if various nomination papers are found to be valid and are accepted, the candidate is expected to tender only one notice seeking withdrawal of his/her candidature.

4 In the present matter, the petitioner has tendered notice under Rule 17 for withdrawal of her candidature, which has been acted upon and as such, name of the petitioner is not reflected in the final list

of contesting candidates. We do not find any error in the action of the Returning Officer.

5 The petitioner contends that since the notice, as contemplated under Rule 17 was tendered at 3.05 p.m. on 03.01.2015, same shall not have been acted upon as the time prescribed for acceptance of notice was up to 3.00 p.m., as provided under the programme. It must be borne in mind that column no.5 of the programme, published by the Election Commission, refers to “05.01.2015 up to 3.00 p.m.”, as the period for withdrawal of candidature. The petitioner, admittedly, has tendered notice, as contemplated under Rule 17 of the Election Rules on 03.01.2015, which was well within the prescribed period. The contention raised by the petitioner, in that regard, also does not bear any merit.

6 Writ Petition is devoid of substance. Hence stands rejected.

P.R.BORA
JUDGE

adb/wp18115

R.M.BORDE
JUDGE