

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

WRIT PETITION NO. 4183 OF 2015

Sau. Vijaya Pralhad Tagare and ors. ... Petitioners
vs
The State of Maharashtra and ors. ... Respondents

Mr. R.R. Sancheti, Advocate for petitioners
Mr. S.K. Tambe, Asstt.Govt.Pleader for respondents no.1 and 3
Mr. S.T. Shelke, Advocate for respondent no.2 and 4

CORAM : SUNIL P. DESHMUKH, J.
DATE : 10TH APRIL, 2015

ORDER

1. Petitioners are before this court challenging rejection of their nominations to contest election for gram panchayat of village Sindhi-Kamat, taluka Devani, district Latur, contending that under the communication dated 31-03-2015, condition of submission of caste validity certificate has been relaxed and for the reasons as contained in said communication, officers were directed to issue certificates even during holidays, including second and fourth Saturdays in order to enable them to fill in applications for nominations. Accordingly, the petitioners had submitted their nominations along with affidavits for contest which came to be duly accepted on the date of submission of the same. As was required under the format dated 4-10-2012, condition of requirement of submission of undertaking was also

complied with, however, their nominations had been rejected on the ground that the undertakings do not show that the caste certificates had been submitted to the caste scrutiny committee.

2. Mr. Mantri, learned counsel appearing on behalf of the petitioners vehemently submits that such an undertaking of submission of caste validity certificate in view of communication dated 31-03-2015 is unreasonable and well nigh absurd, for, according to him the purpose for which the communication dated 31-03-2015 had been issued would not be sub-served. He submits that it would be impossible for a person to obtain requisite certificate from the competent authority and submit it to verification by Scrutiny Committee during the period upto 05-04-2015 and as such condition of undertaking would be impossible to be complied with. He further submits, no classes of nominations can be made with reference to the date of issuance of certificates, one who have obtained and submitted the same for verification by the Scrutiny Committee and those who have received certificates and could not submit the same to scrutiny during the relevant period. He, therefore, submits that rejections of petitioners' nominations are bad in law and requires corrective action by the high court.

3. On the other hand, learned counsel Mr. Shelke appearing on behalf of the State election commission submits that requirement of undertaking as has been referred to has all along been there and in order to lend credence to the caste claim, it is necessary that there shall be submission of caste certificate for scrutiny to the committee indicating seriousness to the claim being made. According to him, the condition of filing the undertaking had not been the subject-matter of any relaxation at all and it continued throughout and even before the communication dated 31-03-2015, under communication/circular dated 26-03-2015, the condition of filing requisite undertaking is imperative and the same holds the field. He further refers to a communication issued on 4-4-2005 showing that an undertaking in the prescribed format had continued to be imperative and incumbent and this was how it was examined by the election officer. In such a case, according to Mr. Shelke, submission of nominations had right from beginning been defective and as such rejection of the same on the ground of non submission of the undertaking in the requisite format should not be faulted with.

4. While it appears from aforesaid, from 2012 onwards all along an undertaking about the certificate being submitted to

the scrutiny committee is required. While relaxing the condition of filing validity certificates, the communication enables the officers concerned to issue certificates up to 05-04-2015 but the condition of the undertaking has not been done away with. Issuance of certificate after 05-04-2015 was only a facility being created for the candidates.

5. In the present case additionally, it appears that the requisite certificates have been obtained by present petitioners earlier to communications and circulars referred to above but have not been submitted to the scrutiny committee and hence, I am not inclined to cause any interference in the decision of the election officer.

7. Writ petition as such is rejected.

SUNIL P. DESHMUKH, J.

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