

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4186 OF 2015

Khatiza Qureshi W/o Chotu Qureshi ...PETITIONER

versus

Returning Officer No. 4,
For the Election of Aurangabad
Municipal Corporation Ward No. 45,
Kaisar Colony, Aurangabad
and ors.

...RESPONDENTS

.....

Mr. Sachin S. Deshmukh, Advocate for Petitioner
Mr. S.T. Shelke, Advocate for respondent No. 1
Mr. P.F. Patni, Advocate for respondent No. 2.
Mr. Atul Karad, Advocate for respondent No. 3.

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 15th APRIL, 2015

Order :-

1. The petitioner, basing her claim on the contents of certificate at Exhibit A (Page No. 11) to the petition as well as the documents at Pages No. 13 and 15, submits that respondent No. 2 - Sheda Khatun W/o Shahanawaz Khan is not eligible to contest the ensuing election of Aurangabad Municipal Corporation, since she has more than three children and it is evident that the third child is born after the cut off date. Whereas Mr. Patni, learned counsel appearing for respondent No. 2-Sheda Khatun submits that Exhibit A (Page No.11) does not relate to respondent No. 2 at all as said document shows one Afaamkhan having born on

16-05-2004 to parents Shaheda Begum and Shabazkhan, residents of Karim Colony, Aurangabad. He submits that respondent No. 2 - Sheda Khatun W/o Shahanawaz Khan is not Shaheda Begum Shabazkhan Khan. He further refers to that respondent No. 2 is resident of Bukkalguda, Shahagunaj, Aurangabad. The certificate at Exhibit A (Page No. 11) is in respect of a person residing at Kareemnagar Colony, Aurangabad.

2. Petitioner contends that objections as have been filed by her ought to have been objectively considered and not perfunctorily as is appearing under the impugned order dated 08-04-2015 passed by the returning officer. The copy of order dated 08-04-2015 along with communication of the even date is tendered across the bar, which is taken on record and marked "X" for identification. The order refers to the exercise of powers by returning officer are instructed from time to time and notification to decide the nomination with reference to the information appearing in the nomination form.

3. Learned counsel appearing for Election Commission submits that a summary enquiry of the nature required at the stage of scrutiny of nomination, veracity of disputed objections would seldom be liable to be enquired and investigated into. For said purpose, he relies on order of election commission dated

15-03-2004 with reference to clause 4(6) of the same. The copy of the order dated 15-03-2004 of the election commission is tendered across the bar, which is taken on record and marked "Y" for identification. Taking into account overall effect of the documents and instructions, the impugned order had been passed.

4. After hearing the learned counsel for the parties, disputed facts emerge in the matter, position appears to be that dispute is about third child being born to respondent No. 2 on the basis of document at Exhibit A (Page No.11). As such, it would not be proper for this court to go into territory of verification of the facts, at this stage.

5. As such, writ petition is being not entertained and stands rejected.

Sd/-
(**SUNIL P. DESHMUKH, J.**)

MTK