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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4221 OF 2015

Vishwambhar s/o Kishanroa Jogdand
Age-31 years, Occ-Agriculture
R/o Pimpalgaon (Nimji)
Taluka and District - Nanded

PETITIONER

VERSUS

1. The Chief Election Commission
Maharashtra State,
Mumbai
2. The Returning Officer,
Grampanchayat Pimpalgaon (Nimji)
Taluka and District - Nanded
3. Shudhodhan Sopan Gachhe,
Age- years, Occ- Agriculture
R/o Pimpalgaon (Nimji)
Taluka and District - Nanded

RESPONDENTS

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Mr. G. D. Kale, Advocate for the petitioner
Mr. V. G. Shelke, AGP for respondent State
Mr. S. T. Shelke, Advocate for respondent No.1
Mr. R. B. Patil, Advocate for respondent No.3

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 18th APRIL, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.

2. The petitioner is before this Court complaining against rejection of his nomination in the election to Gram Panchayat of village Pimpalgaon, Taluka and District – Nanded.

3. The petitioner contends that as a matter of fact, voters list, as required under section 12 of the Bombay Village Panchayat Act, has enough details indicating that it is the petitioner alone, whose name should have figured in the same. However, mistake which crept in while preparing voters list pursuant to the Representation Of Peoples Act, and instead of petitioner's name, some other person's name, who is not even resident of said village, got inserted. The petitioner has in fact objected to the same way back in December, 2014, however that has not been acted upon and in such a case, rejection of his nomination is highly improper and the court as such, should intervene in the matter by setting aside the rejection of his nomination.

4. Learned advocate appearing for respondent No.3, however has different view point. He submits that the petitioner has been negligent, for, at proper stages he could have acted for corrective action with regard to the voters list. He relies on the schedule for finalization of voters list as annexed to his reply at page 63, referring to that the relevant date of publication of

voters list was 26th February, 2015. Objections to the provisional voters list ought to have been taken on / or before 5th March, 2015, as per schedule and the date of finalization of said list was 14th March, 2015. He points out that during this period, no action at all had been taken by the petitioner and this is evident from the information solicited by respondent No.3 under the Right to Information Act and given to him, which is annexed to the reply at page 66. Learned advocate for respondent No.3 further submits that it is only the polling date, which has remained from the election programme and as such, no indulgence be shown to the petitioner.

5. Mr. Shelke, learned advocate appearing for respondent No.1 State Election Commission points out that the State Election Commission hardly has any role as far as voters list pursuant to section 12 of the Bombay Village Panchayat Act is concerned. Correction in the same, if at all is required, it is to be done under the aegis of the Central Election Commission. He further submits that the petitioner ought to have taken action promptly and the petitioner does not appear to have prosecuted the matter diligently after December, 2014. As such, according to him, this is not a fit case wherein this Court shall grant indulgence to the petitioner.

6. Taking into account all the respective submissions, though it appears that the petitioner may have some substance as far as his control over maintenance of the voters list is concerned, however, it will also have to be taken into account that till the stage at which nomination had been applied for, the petitioner does not appear to have moved in right direction, save and except filing application in December, 2014. He also appears to have not taken any action when voters' list was being finalized. The petitioner further has not been able to point out that such correction in the voters list is possible even at the stage of nomination, at the instance of the election officer. As such, no fault can be found with the order passed by the election officer. Writ petition, thus stands dismissed with no order as to costs. Rule stands discharged.

[SUNIL P. DESHMUKH, J.]