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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.4355/2015

Madhavrao Vithalrao Patil.
...Petitioner..

Versus

The State of Maharashtra & others.
...Respondents...

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Shri V.D. Salunke, Advocate for petitioner.
Shri V.G. Shelke, AGP for respondent nos.1 to 3.
Shri K.J. Suryawanshi, Advocate for respondent no.4.
Shri Umakant B. Deshmukh, Advocate for respondent no.5.

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CORAM: SUNIL P. DESHMUKH, J.

DATE: 24.04.2015

ORDER :

- 1] Heard learned counsel for the parties.
- 2] The primary objection to the nomination of respondent no.5 is on the ground that the certificate about experience issued on 6.4.2015 to her was not a valid certificate and subsequently on 8.4.2015, the Chair-person and Secretary have issued certificates separately certifying that the certificate issued to respondent no.5 on 6.4.2015 was issued erroneously and under mistake and an objection to her nomination

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accordingly has been taken. The Election Officer, while deciding the matter, had considered that since the dispute has arisen about veracity of the certificates and he being not a Tribunal to decide about its correctness, it would not be expedient to consider the said objection.

3] Learned counsel for petitioner vehemently submits that the certificate issued to respondent no.5 on 6.4.2015 had been immediately withdrawn and subsequent certificate issued on 8.4.2015 should have been considered to be authentic. Whereas learned counsel for respondent no.5 submits that he had disputed the correctness and authenticity of subsequent certificates issued on 8.4.2015 by the Chair-person and Secretary and those were issued under coercion and pressure. He had objected to those certificates on those grounds before the Election Officer. He further refers to the Hand Book for Returning Officer, 2014 and relies on Guideline bearing No.6.7 about presumption of validity wherein it is stated that in case any doubt arises as to the validity of a nomination paper, the benefit of such doubt should be given to the candidate concerned and the nomination paper should be held to be valid.

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4] In view of aforesaid disputed factual position, I am not inclined to entertain the writ petition. The writ petition, thus, is not being considered and is rejected. No order as to costs. However, it is open for the petitioner to take appropriate proceedings at appropriate stage questioning the nomination of respondent no.5 on the basis of grounds as have been raised in present petition including in an election petition.

5] The observations made hereinabove shall not influence the decision making authorities in the matters being decided on merits.

(SUNIL P. DESHMUKH, J.)