

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

WRIT PETITION NO. 7040 of 2015

1. Vachala Vikram Mudame,
Age: major years, Occ: Household;
 2. Jyoti Yuvraj Jadhav,
Age: Major years, Occ: Household;
 3. Tejabai Sandipan Chavan,
Age: Major years, Occ: Household,
- All r/o. Khanapur Tq. Renapur,
Dist. Latur.

...PETITIONER

VERSUS

1. The State of Maharashtra
Through Collector, Latur.
2. Tahasildar
Tahasil Office Renapur, Dist. Latur.
3. State Election Commissioner
State Election Commission of Maharashtra
Mumbai.
4. Returning Officer
(Sectional Engineer,
Panchayat Samiti Renapur)
State Election Commission, Latur.

...RESPONDENTS

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Mr. Adgaonkar Ravibhushan P., Advocate for the
petitioners.

Mr.N.B.Patil, AGP for respondent State.

Mr.S.T.Shelke, Advocate, for respondent no.3.

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

DATE : July 14th, 2015.

ORAL JUDGMENT: (Per R.M.Borde, J.)

1. Leave to delete names of petitioner nos. 2 and 3.

2. Rule. With the consent of the learned Counsel for the parties, the petition is taken up for final disposal at the admission stage.

3. The State Election Commission declared the programme for filling up one vacancy of Member of Village Panchayat, Khanapur, and the election programme has been declared under Rule 7(2) of the Bombay Village Panchayats Election Rules, 1959, on 25.6.2015. It is not a matter of dispute that the petitioner is the only contesting candidate who has presented valid nomination paper at the election. The last date prescribed for publication of the final list of contesting candidates is 15.7.2015, after 4 'O clock. The petitioner points out that since she is the only contesting candidate, the Returning Officer ought to declare her elected in view of Rule 15 of the Rules. Rule 15 of the Maharashtra Village Panchayats Election Rules, 1959, provides

as under:

"15. Uncontested elections and failure to elect: -

(1) In any ward in which no seat is reserved for Scheduled Castes or Scheduled Tribes or Backward Class of Citizens or Women, -

(i) where the number of candidates duly nominated is equal to the number of seats to be filled, the Returning Officer shall declare the candidates so nominated to be duly elected without any votes being taken."

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(2) In any ward in which seats are reserved for Scheduled Castes or Scheduled Tribes or Backward Class of Citizens or Women, the Returning Officer shall ascertain the number of candidates qualified to fill each reserved seat and thereafter proceed as follows:-

(i) where the number of candidates qualified to be chosen to fill any of the reserved seats is equal to the number of such seats, all the candidates so qualified shall be declared by the Returning Officer to be elected to fill the respective reserved seats.

(ii) where the number of candidates qualified to be chosen to fill any of the reserved seats is less than the number of such seats, all such candidates shall be forthwith declared to be duly elected to fill the respective reserved seats, and

in respect of the remaining such reserved seats it shall be deemed that the election has not resulted in the return of the required number of qualified persons willing to take office within the meaning of sub-section (3) of Section 10. "

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4. In the instant matter, there is no necessity to record votes since the petitioner is the only contesting candidate and, as such, the Returning Officer shall declare her as elected tomorrow by 4 'O clock. Upon declaration of the petitioner as a elected member, the respondent no.1 Collector, who has been invested with the powers in view of Rule 37 of the Rules shall immediately forward the name of the elected person to the Standing Committee and shall simultaneously publish the list of the elected member as reported by the Returning Officer by causing a list to be posted up at his Office and at the office of the Village Panchayat. It is needless to mention that the Returning Officer shall immediately communicate the declaration as regards the elected candidate at election by fax to the office of the Collector without wasting any time. The Collector shall act in accordance with Rule 37 proviso and issue necessary publication immediately on receipt of list/name of elected member, as stated above, from the Returning Officer.

In view of Rule 37 of the Rules, the requirement of communication of name to the Standing Committee and the publication of the name at the Office of the Collector, Village Chavadi and at the Office of the Village Panchayat is a formality to be complied with. The said formality shall be completed on tomorrow i.e. 15th July, 2015, itself so that the petitioner would be able to participate in the process of election of Sarpanch and Upa Sarpanch of the village panchayat.

The Returning Officer (Sectional Engineer, Panchayat Samiti, Renapur), who has been appointed by the Tehsildar, for conducting elections of Sarpanch, shall permit the petitioner to participate in the process of election.

The petitioner voluntarily states that the procedural formality of receipt of notice of election of Sarpanch and Upa Sarpanch needs to be dispensed with and the same is dispensed with.

Rule is accordingly made absolute. No order as to costs.

(P.R.BORA)
JUDGE

(R.M.BORDE)
JUDGE

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