

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

WRIT PETITION NO. 7509 OF 2015

Sangitabai Sandu Khatik,
Age 55 years, Occ. Household,
R/o Palashi Tq. Soyegaon,
Dist. Aurangabad.

...PETITIONER

versus

1. The State of Maharashtra,
Through Principal Secretary,
Rural Development Dept., Mantralaya,
Mumbai.
2. The State Election Commissioner,
Fort, Mumbai.
3. Returning Officer/Tahsildar,
Grampanchayat, Election Soyegaon,
Tq. Saoyegaon, Dist. Aurangabad.
4. Akkabai W/o Sheshrao Karade,
Age: 40 years, Occ. Household,
R/o Palshi, Tq. Soyegaon,
Dist. Aurangabad.

...RESPONDENTS

.....
Mr. S.D. Hiwarekar, Advocate for Petitioner
Mr. V.G. Shelke, A.G.P. For respondent No. 1
Mr. S.T. Shelke, Advocate for respondents No. 2 and 3
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CORAM : SUNIL P. DESHMUKH, J.

DATED : 31st JULY, 2015

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard learned counsel for parties finally, by consent.
2. It is contention of the petitioner that, as a matter of fact, she is 'Sangita Sandu Khatik' and that there is an error in referring to her

name in the caste certificate that instead of 'Sangitabai' erroneously reference has been made "Sanjidabi" .

3. It is further being submitted that said 'Sanjidabi' in whose favour the certificate has been issued is, in fact, 'Sangeetabai' - the petitioner, and accordingly affidavit has also been filed.

4. It appears that objection had been taken to nomination of petitioner, for, in the certificate there appears different name which is not of petitioner. The returning officer considered the objection and had rejected nomination of petitioner.

5. Learned counsel for petitioner submits that petitioner had been elected in last elections and at that time there was no objection. He submits that once affidavit is filed that is sufficient proof of identification.

6. Mr. Shelke, learned counsel for the State Election Commission submits that no error can be said to be committed while rejecting nomination of the petitioner, for, save and except, affidavit and notary on stamp there is nothing placed on record relating to the petitioner's certificate on which she has relied upon. With such skeleton assertion it is difficult to accept the claim of the petitioner unless it is accompanied by some other credible evidence. He further submits that election had reached advanced stage and only polling has remained. Learned Assistant Government Pleader subscribes to the submissions of learned advocate for election commission.

7. Having regard to aforesaid, it appears that dispute has been arisen about facts with respect to identity of the person applying for nomination and holder of the certificate. I, therefore, deem it appropriate not to interfere with the impugned order, additionally, for, the advanced stage in the elections.

8. The writ petition, as such stands rejected. Rule stands discharged. However, it would be open for the petitioner to take up appropriate proceeding at proper stage including an election petition. It is being clarified that observations in this order are only *prima facie* in nature, which shall not influence decision on merits in other proceedings.

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

MTK