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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7635 OF 2015

1. Manisha w/o Arun Shinde Age - 34 years, Occ - Household & Agri. R/o Warthan, Post - Tidke, Taluka - Soygaon, District - Aurangabad	PETITIONERS
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2. Pratibha w/o Dharamsing Solanke, Age - 35 years, Occ - Household & Agri. R/o As above	
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VERSUS

1. The State Election Commission Administrative Building, Mantralaya, Mumbai	RESPONDENTS
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2. The Returning Officer, Gram Panchayat Election at Warthan, Post - Tidka Taluka - Soygaon, District - Aurangabad	
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3. Pushpabai w/o Bapu Solanke, Age - 36 years, Occ - Household & Agri. R/o Warthan, Post - Tidka Taluka - Soygaon, District - Aurangabad	
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4. Shobhabai w/o Gansing Shinde, Age - 60 years, Occ - Household and Agri. R/o As above	
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5. Pratibha w/o Gajanan Khairnar, Age - 28 years, Occ - Household and Agri. R/o as above	
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Mr. N. B. Jadhav, Advocate for the petitioner
 Mr. S. T. Shelke, Advocate for respondent No.1 and 2
 Mr. V. B. Madan Patil, Advocate for respondents No.3 and 4
 Mr. R. V. Gore, Advocate for respondent No.5

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 31st JULY, 2015

ORAL JUDGMENT :

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

2. The petitioners contend that respondents No.3, 4 and 5, while filling up nomination forms have referred to their category as "*general*" and have tick marked in the box in the forms at "*general (woman)*" category. He further points out that the list of receipt of nominations dated 17th July, 2015 depicts that the nominations of respondents No.3, 4 and 5 are referred to as from "*general*" category and not from "*general (woman)*" category. Then, suddenly, however, on 21st July, 2015 when the list of validly nominated candidates had been declared, names of respondents No.3, 4 and 5 appear to have been considered from reserved category for "*general (woman)*" from ward No.1. He, therefore, contends that acceptance of nominations of respondents No.3, 4 and 5 from "*general (woman)*" category is highly improper and unsustainable. He submits that documents do indicate that intention of respondents No.3, 4 and 5 had been to contest the election as "*general*" category candidates and not

from the reserved "*general (woman)*" category. He as such, contends that said consideration of nominations of respondents No.3, 4 and 5 from "*general (woman)*" category causes prejudice to chances of the petitioners in the contest.

3. Learned advocate for respondent No.5 contends that there is no substance in the contentions of the petitioners in respect of her candidature, for, according to him, application form submitted for nomination by respondent No.5 unerringly points out that all along she intended to contest the election as "*general (woman)*" category candidate. She has specifically referred to the same in written form and has tick marked in right column. He, therefore, submits that there is no substance at all in the contentions.

4. Learned advocate for respondents No.3 and 4, submits that the respondents had all along been intending to contest the election as "*general (women)*" category candidates and as such, had tick marked the boxes of "*general (woman)*" in the nomination forms, however, under inadvertence, they had not realized that such specific category will have to be referred to in writing as it is undeniable that they are women and as such, did not specifically refer to it while writing the same. He, further

contends that when the list of receipt of nominations had been displayed on 17th July, 2015 they realized that they had not been considered from reserved category of "*general (woman)*" and as such, they had taken corrective action referring to their intention as emerging from tenor of their applications and, therefore, the nominations had been rightly considered from "*general (woman)*" reserved category.

5. Learned advocate for the State Election Commission submits that applications of respondents No.3, 4 and 5 give sufficient indication of their intention about contesting elections from "*general (woman)*" category and as such, corrective action had been taken by the returning officer as per their requests which could be borne out from applications. He further refers to that elections are now at advanced stage and need not be interfered with.

6. Since it is submitted that applications do give sufficient indication of respondents No.3, 4 and 5 about their intention, no fault can be attributed to the returning officer. The elections are already in advanced stages. Looking at aforesaid, I do not think that this is fit case where indulgence should be given to the petitioner. As such, writ petition stands dismissed. Rule stands

discharged.

7. This, however, would not be an impediment for the petitioners to make an approach under election petition, if so advised, after the elections are over and respondents No.3, 4 or 5 are elected from "*general (woman)*" category. The observations made herein above are restricted for dismissal of the writ petition and shall not influence other proceedings.

[SUNIL P. DESHMUKH, J.]

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