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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7634 OF 2015

Anjanabai Hanwata Talekar
Age – 65 years, Occ – Household
R/o Walur, Taluka – Selu
District – Parbhani

PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai
2. The State Election Commission,
Madam Cama Road, Fort,
Mumbai
3. The Returning Officer for
Elections to Gram Panchayat,
Walur, Taluka – Selu
District – Parbhani
4. Gram Panchayat Walur
Taluka – Selu, District – Parbhani
Through its Gramsevak

RESPONDENTS

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Mr. Swapnil S. Rathi, Advocate for the petitioner
Mr. S. P. Daund, AGP for respondent State
Mr. S. T. Shelke, Advocate for respondents No.2 and 3
Mr. Girish Rane, Advocate for respondent No.4.

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 28th JULY, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with

consent of learned advocates for the parties.

2. After hearing learned advocates for the parties, the situation emerges that the petitioner has declared that she has four children born after the cut off date i.e. 13th September, 2000 as is appearing in the declaration form.

3. The returning officer on the day of scrutiny, after inspecting the nomination form, had rejected nomination of the petitioner since the nomination form shows that the petitioner has four children born after the cut off date.

4. According to learned advocate for the petitioner all the four children of the petitioner are born before the cut off date. He submits that the intention of the petitioner was not to state that she has four children born after the cut off date, but total number of children she has. He thus submits that proper view requires to be taken in the matter, in exercise of powers under Article 226 of the Constitution of India.

5. Learned advocate for respondent No.4 refrains from entering into the controversy about children being born after or before the cut off date.

6. Learned advocate for the State Election Commission and

learned AGP contend that the elections have already reached final stage, save polling all other stages are already over. They further refer to various citations, including “*Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha and Another V. State of Maharashtra and Others*” reported in (2001) 8 SCC 509 and submit that no interference needs to be caused as ultimately all these are questions of facts. He further refers to Articles 329 and 243-O (b) of the Constitution of India.

7. It appears that no material had been placed by the petitioner before the returning officer while nominations were being scrutinized nor any effort was made to show that it was a mistake before scrutiny. Having regard to the stage of the elections and declaration in the nomination form filled in by the petitioner, it would hardly be said that the returning officer had committed any mistake.

8. Under the circumstances, although it is being requested by learned advocate for the petitioner that in such a case this court should invoke its extra ordinary powers, however, looking at the citations relied upon by learned advocate for the State Election Commission, I am disinclined to grant any indulgence to the request made on behalf of the petitioner.

9. Writ petition, as such stands dismissed leaving it open for the petitioner to take up appropriate proceedings at proper stage before appropriate forum. Needless to refer to that the observations hereinabove are restricted only for rejection of the writ petition. Rule stands discharged.

[SUNIL P. DESHMUKH, J.]

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