

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

WRIT PETITION NO. 7837 OF 2015

Kanchan w/o Hambir Mandage

.. PETITIONER

VERSUS

The State Election Commission
& others

.. RESPONDENTS

Mr. N.V. Gaware, advocate for petitioner.
Mr. S.G. Nandedkar, AGP for the State.
Mr. S.T. Shelke, advocate for respondent no. 1.

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**CORAM : R.M. BORDE &
P. R. BORA, JJ.
DATE : 31st JULY, 2015**

PER COURT :

1. Petitioner is objecting to the order passed by the respondent - State Election Commission thereby directing cancellation of the election process in respect of seat earmarked for women (general) category from ward no. 1 of Village Panchayat Rehakuri, Tq. Karjat, Dist. Ahmednagar.

2. Petitioner contends that she had tendered nomination paper for the aforesaid seat which was accepted. However, the Returning Officer has presented First Information Report as regards unruly behaviour of petitioner and her companions. It is alleged in the First Information Report that on 20.07.2015, the Returning Officer was performing the function of acceptance of nomination papers. It is contended that at 4.00 pm, he received instructions from the Tahsildar that the period prescribed for acceptance of nomination papers has been extended upto 5.30 pm. It is contended that

another prospective candidate by name Alka Raosaheb Mandage came to the office for tendering nomination paper. However, petitioner and her companions obstructed the Returning Officer from accepting the nomination paper of the prospective candidate and took away the papers and destroyed the same. Names of petitioner and her companions are mentioned in the First Information Report as 'accused'. Considering the report tendered by Returning Officer, the State Election Commissioner has taken a decision of cancellation of election process for the aforesaid seat. Petitioner contends that the decision has been taken without extending an opportunity of hearing and that she ought to have been declared elected unopposed since until the expiry of the time prescribed in the election programme for acceptance of nomination papers, no rival candidate had tendered nomination paper. It is also contended that the State Election Officer does not have entitlement to extend the time for acceptance of nomination papers. Placing reliance on the judgment in the matter of Mohinder Singh Gill Vs. Chief Election Commissioner, New Delhi, reported in **1978(1) SCC 405**, learned counsel for petitioner contends that the respondent ought not to have interfered in the ongoing process of election. However, in the instant matter, it is prima facie observed on the basis of the report tendered by the Returning Officer that petitioner and her companions tried to interrupt the process of election. In this view of the matter, the Election Commissioner has taken a conscious decision of cancellation of election process. So far as the issue as regards extension of time for acceptance of nomination paper is concerned, it does not deserve consideration since the poll itself has been cancelled. If at all, the petitioner

has any grievance, she may either approach the State Election Commission or may avail the remedies available in law. In the given facts and circumstances, this is not a fit case for causing interference in exercise of extra ordinary jurisdiction under Article 226 of the Constitution of India. Petition is devoid of substance hence stands rejected.

(P. R. BORA)
JUDGE

(R. M. BORDE)
JUDGE

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