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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION STAMP NO.22790 OF 2015

Geetabai Vitthal Shinde
Age – 49 years, Occ – Household
R/o Dhanore, Talulka – Rahata
District – Ahmednagar

PETITIONER

VERSUS

1. The Returning Officer,
Dhanora Grampanchayat
Elections-2015
Taluka – Rahuri, District – Ahmednagar
2. The Tahsildar,
Rahuri, Taluka – Rahuri
District – Ahmednagar
3. The State Election Commission,
Maharashtra State, Mumbai

RESPONDENTS

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Mr. V. S. Bedre, Advocate for the petitioner
Mr. V. G. Shelke, AGP for respondent State
Mr. M. B. Bharaswadkar, Advocate for respondents No.1 and 3

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 3rd AUGUST, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.
2. The matter has been moved showing an extreme urgency

and has been tendered across the bar. Accordingly, the matter is being taken up for hearing.

3. Mr. Bedre, learned advocate for the petitioner, contends that as a matter of fact the petitioner does possess toilet facility in her residence at Songaon. According to him, village Dhanore and village Songaon are closely distanced. The petitioner is resident of both the places, Dhanora as well as Songaon. As such, the order rejecting nomination for non availability of toilet facility at the residence at Dhanora should not entail rejection of nomination. Learned advocate for the petitioner submits that philosophy underlying making toilet facility available is to maintain hygiene by leaders setting example for public to follow, to lead hygienic life and as such, the condition under the statute, should be deemed to be satisfied.

4. Learned advocates for the respondents, however, submit that toilet facility, having regard to purport and object under the relevant provision, should be seen from that angle that the same is a requirement in respect of place where the candidate is residing and is contesting the elections. It is, therefore, contended that this basic requirement apparently is not being satisfied, since the petitioner comes forward with a case that

toilet facility is available at Songaon and not at Dhanora and elections are in respect of Dhanora Gram Panchayat, in the circumstances, no fault can be found with the impugned order. It is further contended that the approach to the court has been made by the petitioner at a grossly belated stage. The matter is being moved on 3rd August, 2015 while voting is scheduled on 4th August, 2015. They, further submit that no interference be caused, as all the arrangements for voting have been made and it would be difficult to alter the situation.

5. After hearing learned advocates for the parties, it appears that though the petitioner contends that requirement of having toilet facility is satisfied, looking at the provision of section 14 (1) (j-5) of the Maharashtra Village Panchayat Act, it cannot be said to be satisfied. Section 14 (1) (j-5) of the Act reads thus -

14. (1) No person shall be a member of a panchayat continue as such, who -

(a)

(b)

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*(j-5) fails to submit a certificate of the **concerned panchayat**, along with*

the resolution of the Gram Sabha certifying that -

(i) he resides in a house owned by him and has a toilet in such house and he regularly uses such toilet; or

(ii) he resides in a house not owned by him and has a toilet in such house and he regularly uses it or he has no such toilet but regularly uses the public toilet.

6. The position, as such, vividly points out that the words "**concerned panchayat**" are specifically referred to in the provision as such, there is no substance in the contentions being advanced by learned advocate for the petitioner. Additionally, looking at the very advanced stage of the elections, the writ petition is not being entertained and is dismissed. Rule stands discharged.

7. These observations, of course would not be an impediment for the petitioner to take up appropriate proceedings against rejection of her nomination as would be available in law.

[SUNIL P. DESHMUKH, J.]