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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7547 OF 2013

Indubai w/o Kachru Pawar
Age - 61 years, Occ - Household
R/o Pimparkheda, Taluka-Gangapur
District - Aurangabad

PETITIONER

VERSUS

1. The State of Maharashtra
2. The Additional Commissioner,
Aurangabad, at Aurangabad
3. The Additional Collector,
Aurangabad at Aurangabad
4. The Returning Officer,
Village Panchayat Pimpalkheda,
Taluka - Gangapur, District - Aurangabad
5. S. M. Rathod,
Age - 29 years, Occ - Service
and Returning Officer of village
Panchayat Pimparkheda
Taluka - Gangapur, District - Aurangabad
6. Ramkrushna Shankar Gaikwad,
Age - 47 years, Occ - Agriculture
R/o Pimparkheda, Taluka - Gangapur
District - Aurangabad

RESPONDENTS

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Mr. S. G. Jadhavar, Advocate for the petitioner
Mr. S. G. Sangale, AGP for respondent State
Mr. R. V. Gore, Advocate for respondent No.6

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 6th JULY, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.
2. The petition has been moved by petitioner Indubai w/o Kachru Pawar, taking exception to three concurrent orders passed by authorities, upon an application for nomination, which according to the petitioner had been filed by her as Indubai Kachru Dhanait.
3. Succinctly stated, case of the petitioner is that Indubai Kacharu Pawar and Indubai Kacharu Dhanait is one and the same person, while the petitioner's maiden surname i.e. before marriage is "Dhanait", and she has become Indubai Kacharu Pawar, after her marriage.
4. Indubai Kacharu Pawar is indisputably a member of village Panchayat of Pimparkheda, Taluka – Gangapur, District – Aurangabad. After elections to the membership of said Gram Panchayat in October, 2012, a notice was issued by respondent No.4, returning officer, convening a meeting for elections to the post of *Sarpanch* and *Upasarpanch*. The petitioner accordingly attended the meeting scheduled on 19th November, 2012 for said purpose.

5. According to the petitioner, she had submitted her nomination for the post of *Upasarpanch*, however, the same came to be rejected erroneously by the returning officer. An appeal carried therefrom to the Additional Collector pursuant to section 33 (5) of the Bombay Village Panchayat Act also failed. So is the case in respect of further appeal before the Divisional Commissioner, Aurangabad.

6. Learned advocate for the petitioner vehemently submits that relevant papers would show that although her name has been referred to as Indubai Kacharu Pawar, it cannot be disputed that her maiden surname is "Dhanait" and reference in nomination to said surname "Dhanait" has been made accordingly. Although learned advocate has advanced such submissions, the appeal memo, as has been annexed to the writ petition, does not spell out any such contention. Further, learned advocate for the petitioner is not in a position to explain as to how the nomination form submitted by Indubai Kacharu Dhanait should be considered as one from Indubai Kacharu Pawar, for admittedly Kacharu happens to be husband of the petitioner and it is admitted that any person having name Kacharu is not father of the present petitioner. In such a case, the contentions, as are

now advanced and the names as are appearing in the writ petition, in the voters' list, in the notice, while signing the proceeding sheet, as Indubai Kacharu Pawar, are not compatible with name as is incorporated in the nomination form.

7. Perusal of the appeal memo as well as writ petition does not substantiate the case as has been sought to be argued. Learned advocate for the petitioner places reliance on *2002 (3) Bom.C.R. 405 “ Sayed Najer @ Sayed Najir s/o Baba & Another V. Returning Officer and Others”*. It is a case wherein the elected person “Najer” was spelt as “Najir” in the elections concerned. There were at least four persons like *Police Patil, Talathi* and *Gram Sevak*, who had identified the person elected was in fact “Najer”. In the present case, the situation is otherwise. There is no identification of the petitioner concerned by any other person, save and except the contentions being advanced presently before this Court.

8. In view of aforesaid, I do not deem it appropriate and it does not appear to be a fit case which calls for indulgence in favour of the petitioner. Writ petition, as such, stands dismissed. Rule stands discharged.

[SUNIL P. DESHMUKH, J.]