

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

WRIT PETITION NO. 10700 OF 2015

Mahadevi Ganesh Mathpati,
Age 29 years, occup. Household,
R/o Wasri, Tq. Mudkhed,
Dist. Nanded .. Petitioner

versus

01. The Returning Officer,
Grampanchayat, Wasri,
Tq. Mudkhed, Dist. Nanded
02. The Tahsildar, Mudkhed,
Tq. Mudkhed, Dist Nanded
03. The Maharashtra State Election
Commission, Madam Kama Road,
Fort Mumbai, through its Chief
Election Commissioner .. Respondents

Mr. S. B. Ghatol Patil, Advocate for petitioner
Mr. S. T. Shelke, Advocate for respondents no. 1 and 3
Mr. S. S. Dande, Asstt.Govt.Pleader for respondent no.2

CORAM : SUNIL P. DESHMUKH, J.
DATE : OCTOBER 28, 2015

ORDER

1. Rule. Rule made returnable forthwith. Heard learned
counsel for parties finally, by consent.

2. Nomination of the petitioner has been rejected on the ground that requisite affidavit in respect of maiden name and name after marriage has not been given by the petitioner. The situation appears to be that maiden name of the petitioner happens to be Mahadevi Shadakshari Mathapati and after marriage she became Mahadevi Ganesh Mathapati. It appears that school record bears name of petitioner as Mahadevi Shadakshari Mathapati and accordingly her caste certificate had been issued and the same has been subjected to scrutiny by competent committee. As far as submission of caste certificate and its onward submission for scrutiny by the committee is concerned, is not in dispute. However, returning officer has rejected nomination of the petitioner on the ground that she had not submitted requisite affidavit explaining above position by 3.10 pm.

3. It appears that 16th October, 2015 was the last date of submission. It appears that the returning officer has rejected nomination of the petitioner for want of caste certificate as well as receipt about the same having been submitted for scrutiny by the committee. This order, apparently has been passed without realizing that the caste certificate and the receipt refers to the maiden name of the petitioner and not

the name after the marriage. The nomination has been filed with reference to name after marriage. It further appears that the application for aforesaid reason came to be rejected on 19th October, 2015, which was the date of scrutiny of the nominations. The reason is also given that by 3.10 pm requisite affidavit has not been filed by the petitioner. However, the election programme depicts that the scrutiny was to take place from 11.00 am onwards and there was no outer limit for scrutiny of nomination. It is the case of the petitioner that the requisite affidavit had been tendered on 19th October, 2015 itself.

4. Mr. Shelke, learned counsel for respondents no. 1 and 3 has referred to that in the affidavit in reply, it has been contended that the identity of the petitioner cannot be said to have been established, for, there is discrepancy in the name as occurring in Permanent Account Number (PAN) and the caste certificate. It appears that PAN contains maiden name as well as name after marriage. In the circumstances, there appears to be sufficient indication of identity of the petitioner.

5. As far as the reason given for rejection of nomination that the affidavit was not submitted with regard to maiden

name and the name after marriage having regard to election schedule by 3.10 p.m. on 19-10-2015 is concerned, scrutiny was to commence at 11.00 a.m. and no specific outer limit has been referred to in the programme.

6. In the circumstances, by taking a hyper technical approach in the matter, an eligible candidate may not be blocked from contest. In the circumstances, I deem it appropriate, although it is being contended that all the requisites save polling have been completed, but since petition had been pending and respondents had notice of the same, all the necessary arrangements for inclusion of petitioner's name as a nominated candidate will have to be carried out.

7. Having regard to aforesaid that Mahadevi Ganesh Mathpati was Mahadevi Shadakshari Mathpati before marriage and her caste certificate being produced along with nomination and its onward submission for scrutiny by the committee not being in dispute and an affidavit to that effect being sought to be submitted, I deem it appropriate that writ petition deserves positive consideration.

8. In view of the same, writ petition is allowed in terms of prayer clause (B) and disposed of. Rule made absolute accordingly.

9. Parties to act on authenticated copy of the order.

SUNIL P. DESHMUKH, J.

pnd