

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

WRIT PETITION NO.10706 OF 2015

Nilawati Sarjerao Sakat ... Petitioner
vs
The State of Maharashtra and ors. ... Respondents

Mr. D. B. Shinde, Advocate h/f Mr. G.K. Kshirsagar, Advocate for petitioner

Mr. V. G. Shelke, Asstt. Govt. Pleader for respondents no. 1

Mr. S. T. Shelke, Advocate for respondents no. 2 and 3

CORAM : SUNIL P. DESHMUKH, J.
27TH OCTOBER, 2015

ORDER:

1. Petition has been moved challenging order passed by Respondent no. 3 - returning officer for elections to gram panchayat, Sastha Pimpalgaon, Taluka Ambad, District Jalna, on 19-10-2015, stating that the petitioner has claimed reservation as candidate from scheduled caste (Women) category and ward no. 4 for which she had applied, is reserved for scheduled caste (General).

2. Learned counsel for the petitioner submits that, as a matter of fact, the petitioner intended to contest election from said ward No. 4 as a scheduled caste candidate, however, being a lady, she did not appreciate that tick marking reservation for

scheduled caste (Women) category would disqualify her. It is, therefore, being contended on her behalf that lenient view be taken and she should be allowed to carry out correction in the nomination form accordingly.

3. Learned counsel for the petitioner, purports to place reliance on the supreme court judgment in the case of *Resurgence India vs. Election Commission of India and another*, reported in *2014 AIR (SC) 344*, particularly on clause (iv) of paragraph number 27 of the same which reads :-

“ 27 (iv). It is the duty of the Returning Officer to check whether the information required is fully furnished at the time of filing of affidavit with the nomination paper since such information is very vital for giving effect to the right to know of the citizens. If a candidate fails to fill the blanks even after the reminder by the Returning Officer, the nomination paper is fit to be rejected. We do comprehend that the power of Returning Officer to reject the nomination paper must be exercised very sparingly but the bar should not be laid so high that the justice itself is prejudiced. “

4. Learned counsel for the petitioner submits that had the petitioner been given a chance, she would have carried out necessary correction, relying on underlying purport of clause (iv) of paragraph number 27 of the judgment referred to hereinabove.

5. Learned counsel for the petitioner also place reliance on *Anant Janardan v. State of Maharashtra, 2002 (2) Mh.L.J. 238*, which was with reference to that no format is prescribed under rules of 1959 for submitting caste certificate along with nomination form and that rejection by returning officer of nomination form being not accompanied by scheduled tribe certificate in prescribed format was set aside by the court considering that such a defect is not substantial.

6. Learned counsel Mr. S.T. Shelke appearing for election commission and returning officer points out that petitioner has all through referred to her candidature as from scheduled caste (Women) category and that while scrutiny had taken place, no request for correction had ever been made by her. He submits that all the stages save polling are over.

7. Under the circumstances, it is not a case warranting interference. Writ petition, as such, is rejected.

SUNIL P. DESHMUKH, J.

pnd