

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

WRIT PETITION NO. 10826 OF 2015

Kusum Kushivarta Limbaji Raut .. Petitioner

vs

The State of Maharashtra and ors. .. Respondents

Mr. Kamlakar J. Suryawanshi, Advocate for petitioner
Mr. S.S. Shelke, Advocate for respondents no. 1 and 2

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

ORDER:

1. Petition has been moved purportedly aggrieved by order dated 19-10-2015 passed by respondent no. 2-returning officer in the elections to village grampanchayat Najipangri, Taluka Badnapur, District Jalna, whereunder nomination of the petitioner has been rejected on the ground that the same had not been accompanied by the requisite certificate.

2. Learned counsel for the petitioner submits that there is sufficient record indicating existence of the caste certificate and further that the same has been subjected to the scrutiny before the concerned committee which is depicted by a receipt which has been appended to the nomination. In the circumstances, according to him, order impugned is unsustainable.

3. Mr. Shelke, learned counsel for respondents no. 1 to 2, on the other hand, refers to phraseology used in section 10-1A of the Maharashtra Village Grampanchayat Act, 1959. Section 10-1A reads thus;

“ 10-1A. Person contesting election for reserved seat to submit Caste Certificate and Validity Certificate. Every person desirous of contesting election to a seat reserved for Scheduled Castes, Scheduled Tribes or, as the case may be, Backward Class of Citizens, shall be required to submit, along with the nomination paper, Caste Certificate issued by the Competent Authority and the Validity Certificate issued by the Scrutiny Committee in accordance with the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. (Mah. XXIII of 2001)

Provided that, for the General or by-elections for which the last date of filing nomination falls on or [before the 31st December, 2015], in accordance with the election programme declared by the State Election Commission, a person who has applied to the Scrutiny Committee for verification of his Caste Certificate before the date of filing of the nomination papers but who has not received the Validity Certificate on the date of filing of the nomination paper, shall submit, along with the nomination papers;-

(i) a true copy of the application preferred by him to the Scrutiny Committee for issuance of the Validity Certificate or any other proof of having made such application to the Scrutiny Committee; and

(ii) an undertaking that he shall submit, within a period of six months from the date on which he is declared elected, the Validity Certificate issued by the Scrutiny Committee;

Provided further that, if the person failed to produce the Validity Certificate within a period of six months from the date on which he is declared elected, his election shall be deemed to have been terminated retrospectively and he shall be disqualified for being a member.

4. Mr. Shelke submits that section 10-1A requires compliance of two conditions to be satisfied that a caste certificate and also a caste validity certificate to be submitted with the nomination form, albeit, a concession has been given in cases where validity of caste certificate is pending scrutiny before the committee pursuant to the amended provisions. He, therefore, submits that reliance placed by petitioner on instructions by election commission as have been annexed to writ petition cannot be isolatedly read and will have to be read conjointly along with main provision. It cannot be said under the instructions, requirement of submission of caste certificate along with the nomination form has been dispensed with altogether. He therefore submits that hardly any fault can be found with the order passed

5. Learned counsel appearing for petitioner submits that in all likelihood, the petitioner would be able to procure photo copy of the caste certificate soon and in such a case, rejection of nomination may not be sustained on technical ground and particularly having regard to that these are elections to gram panchayat and persons concerned are the villagers, scrupulous compliance of the requirements may not advance the interest of the persons concerned and taking a lenient view, petition be considered favourably.

6. Having regard to the requirements under the provisions, one would not be able to say that the returning officer has committed any error in rejecting nomination of petitioner for want of certificate.

7. Writ petition, as such, is not being entertained and is rejected. This, of course, would not be an impediment for the petitioner if she is advised to file any other proceedings in respect of the elections at appropriate stage including challenging order of rejection of her nomination.

Sd/-

SUNIL P. DESHMUKH, J.

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