

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10640 OF 2015

Sou. Kashibai K. Wagge

.. Petitioner

vs.

State of Maharashtra and ors.

.. Respondents

Priyal G. Sarda for the Petitioner.

Mr. A.D. Kango, AGP for Respondent Nos.1,4,5,6.

Mr S.B. Shetye for Respondent No.2 & 8.

CORAM : M. S. SONAK, J.

DATE : 26 OCTOBER 2015.

P.C. :-

1] Not on board. Upon production, taken on board.

2] The challenge in this petition is to the rejection of the
Petitioner's nomination form.

3] The learned counsel for the Petitioner submits that the
rejection is contrary to the Rules and clearly not sustainable.

4] The election process is already under way and the
actual poll is scheduled on 1 November 2015. At this stage,
therefore, it would not be appropriate to exercise the jurisdiction
under Article 226 of the Constitution of India. More so because, the
provisions contained in Section 15 of The Maharashtra Village

Panchayats Act, 1959 ('said Act') provides for remedy by way of Election Petition. Further, Section 15A of the said Act provides that no election to any *Panchayat* shall be called in question except in accordance with the provisions of Section 15; and no Court other than the Judge referred to in that Section shall entertain any dispute in respect of such election. Section 15A of the said Act, in fact, echoes what is provided in Article 243(O) of the Constitution of India which, *inter alia*, provides that no election to any *Panchayat* shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any Law made by the legislature of a State.

5] No doubt, the learned Counsel for Petitioner is right that despite such provision, this Court retains jurisdiction to entertain Petition under Article 226 of the Constitution of India. However, considering the circumstance that the election is already underway and actual poll is scheduled on 1 November 2015, it will not be appropriate to exercise discretion and entertain the present petition. Accordingly, the present petition is not entertained. It is, however, made clear that this Court has not examined the dispute on merits and therefore all contentions of all parties are left open for decision

by the appropriate authority if and when any occasion arises for the same.

6] The petition is disposed of in the aforesaid terms. There shall, however, be no order as to costs.

7] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

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