

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (STAMP) NO.8513 OF 2015

Shri. Nilesh Namdev Bhujbal

Age:-32 years, Occu:-Agriculturist,

R/o:-Ale, Taluka- Junnar, Dist:-Pune

.. Petitioner

Versus

1. The Returning Officer-cum-

Sub Divisional Officer, Junnar,

Ambegaon-Manchar having office at

Tahsildar Officer, Junnar, Dist-Pune.

2. Maharashtra State Co-operative

Election Authority, Through its

Secretary, having office at Old Central

Building, Ground Floor, Pune-41101.

3. Shri. Vighnagar Sahakari Sakhar

Karkhana Ltd, Through its

Managing Director, Having office at

Nivruttinagar, Taluka- Junnar,

Dist:-Pune

.. Respondents

Shri. Vijay D. Patil i/by Shri. Nitin S. Dhumal, for the Petitioner.

Shri. Anant B. Bobe, for the Respondent No.3.

Mrs. Vaishali Nimbalkar, AGP for the Respondent No.1.

CORAM : R.M. SAVANT, J.

DATE : 27th MARCH, 2015

ORAL JUDGMENT

1. Rule, with the consent of the Learned Counsel for the parties made returnable forthwith and heard.

2. The Writ Jurisdiction of this Court is invoked as the Petitioner's application dated 18.03.2015 for withdrawal of his candidature from both the constituencies for which he has filled up nominations has been accepted only for one constituency namely the constituency meant for the candidates belonging to the Other Backward Class. The elections are to be held to the Board of Directors of the Respondent No.3 Sakhar Karkhana for which elections there are 21 seats. The Petitioner belongs to the Other Backward Class and had filled up two nomination forms one for the open constituency known as Pimpalwandi Gat No.4 and the other nomination form was filled for the seat meant for the Other Backward Class category. It seems that an understanding was reached amongst the candidates who were desirous of participating in the elections to the managing committee of the Respondent No.3 that to avoid unnecessary expenses, it would be better if there is no contest and that the 21 directors are elected unopposed. It is the case of the Petitioner that it is in keeping with the said understanding that the Petitioner filed the said application on 19.03.2015 which is the date for withdrawal as per the

election program. By the said application, the Petitioner as indicated above wanted to withdraw from both the constituencies. The Election Officer however accepted the withdrawal only in so far as the seat meant for the Other Backward Class category is concerned and rejected the application, in so far as the withdrawal from the open constituency from Pimpalvandi Gat No.4 is concerned. The Petitioner therefore on the same day filed an application for withdrawal from the second constituency Pimpalvandi Gat No.4 on 19.03.2015. However, the said application was rejected on the ground that the same was submitted after the time for withdrawal was over i.e. 3.00 p.m. and application being submitted at around 6.45 p.m.. The instant case is therefore a case where the candidate has shown his intention to withdraw from the contest from both the constituencies. This is further fortified by the fact that after his application was rejected in respect of the other constituency he had immediately filed an application in respect of the remaining constituency. In my view, the Returning Officer/Sub Divisional Officer has taken a highly technical view of the matter in rejecting the application for withdrawal from the second constituency i.e. Pimpalvandi Gat No.4. This conclusion is required to be arrived at in view of the fact that intention of the Petitioner is writ large in the said two applications filed by him namely to withdraw from the contest. In that view of the matter, the Petition is required to be allowed.

The order dated 19.03.2015 passed by the Sub Divisional Officer is required to be set aside. In so far as the rejection of the Petitioner's application for withdrawal from Pimpalvandi Gat No.4 is concerned, the said application is accordingly required to be allowed and is accordingly allowed. The consequence would be that the Petitioner's candidature from the constituency known as Pimpanwandi Gat No.4 would also stand withdrawn. The Petition is allowed. Rule is accordingly made absolute in the aforesaid terms. The authorities having regard to the instant order may pass an appropriate order in respect of the results to the 21 seats.

[R.M. SAVANT, J]