

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3830 OF 2015

Ahilyabai Pandurang Kshirsagar,)
Age:-60 years, Occ:-Grampanchayat Member,)
Residing at Post Mukhed,)
Tal:-Niphad, Dist:-Nashik) .. Petitioner

Versus

1. The State of Maharashtra,)
Through the Collector,)
Nashik, District Nashik.)

2. The Returning Officer,)
Niphad, Taluka Niphad,)
District Nashik.)

3. Tahsildar, Niphad,)
Taluka Niphad, District Nashik) .. Respondents

Shri. Sachin Gite, for the Petitioner.

Mrs. Vaishali Nimbalkar, AGP for the Respondents.

CORAM : R.M. SAVANT, J.
DATE : 17th APRIL, 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 against the order dated 08.04.2015 passed by the Returning Officer, by which order the nomination form filled by the Petitioner for contesting the elections from Ward No.2 in the ensuing elections for the Gram Panchayat Mukhed, Taluka Niphad, District Nashik came to be rejected. The said rejection is on the ground that the Petitioner had not produced the Caste Certificate. It is required to be noted that the Petitioner had produced the Caste Validity Certificate dated 31.05.2010 issued by the Caste Scrutiny Committee-I, Nashik Division, Nashik. By the said Caste Validity Certificate the Petitioner is held to be belonging to the Other Backward Class namely "Hindu Sutar". It is an undisputed position that the said Caste Validity Certificate was produced, but not the Caste Certificate. The Caste Validity Certificate is issued after the caste claim as evidenced by the Caste Certificate is substantiated by the person who claims to belong to a particular caste as mentioned in the Caste Certificate. The Caste Validity Certificate is therefore a document which can be said to validate the Caste Certificate which has been issued to a person of he/she belonging to the particular caste. Though Section 10(1) of the Bombay Village Panchayat Act mandates that the Caste Certificate and the Caste Validity Certificate is required to be produced. Since the Caste Validity Certificate is only a sequitur to the Caste Certificate which is issued the non-production of the

Caste Certificate by a candidate cannot be said to be a defect of a substantial nature for the nomination to be rejected if the Caste Validity Certificate has been produced by the candidate. In the instant case, this Court had directed the Learned Counsel for the Petitioner to ascertain from the Petitioner whether she has the Caste Certificate in her possession. The Learned Counsel for the Petitioner has accordingly produced a copy of the Caste Certificate issued by the Sub Divisional Officer, Niphad Division, Niphad which is dated 25.05.2000, as also the letter dated 14.05.2010 forwarding the caste claim made by the Petitioner to the Secretary, Divisional Caste Scrutiny Committee, Nashik. The said documents therefore fortify the case of the Petitioner that she has the Caste Certificate, but had inadvertently not produced the same at the time of filing of the nomination, and that she had applied for validating her caste claim which has been validated as evidenced by the Caste Validity Certificate issued by the Divisional Caste Scrutiny Committee-I, Nashik Division, Nashik.

3. In that view of the matter, the impugned order dated 08.04.2015 passed by the Returning Officer rejecting the nomination of the Petitioner is required to be quashed and set aside and is accordingly quashed and set aside. The nomination of the Petitioner would be held to be valid. Resultantly, the Petitioner's name to be included in the final list of

candidates and the Petitioner should be assigned a symbol by the Returning Officer. The Petition is allowed to the aforesaid extent. Rule is accordingly made absolute with no orders as to costs. The Caste Certificate dated 25.05.2000 and the letter dated 14.05.2010 addressed by the Tahsildar Niphad to the Secretary, Divisional Caste Scrutiny Committee are marked as 'X' and 'Y' for identification. Parties to act on a copy of this order duly authenticated by the Court Shirestedar.

[R.M. SAVANT, J]