

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7215 OF 2015

Smt. Alka Baburao Doiphode,
Age-60 years, Occu:-Housewife,
R/at- Village Bhekwali,
Taluka- Mahabaleshwar, Dist:-Satara .. Petitioner

Versus

1. Returning Officer,
Machutar Grampanchayat
General Election 2015,
Taluka Mahabaleshwar, Dist:-Satara.
2. The State Election Commission,
State of Maharashtra, Mumbai.
3. The Tahsildar,
Taluka Mahabaleshwar, Dist:-Satara.
4. The State of Maharashtra .. Respondents

Mr. S. D. Chavan, for the Petitioner.

Mr. S. D. Rayrikar, AGP for the Respondent Nos.3 & 4.

Mr. S. B. Shetye, for the Respondent No.2.

CORAM : R.M. SAVANT, J.
DATE : 24th JULY, 2015

ORAL JUDGMENT

1. The Writ Jurisdiction of this Court is invoked against the order dated 21.07.2015 passed by the Returning Officer, Machutar Gram Panchayat, by which order the nomination filed by the Petitioner for contesting elections from Ward No.3 in Bhekawali Gram Panchayat in a seat meant for the Nomadic Tribe category came to be rejected. To the said nomination form, the Petitioner had annexed his Caste Validity Certificate dated 26.11.2007 as belonging to “Dhangar” issued by the Caste Scrutiny Committee, Pune Division, Pune. The Petitioner's nomination was rejected on the ground that she had not submitted her Caste Certificate as belonging to “Dhangar”. The Petitioner has a Caste Certificate as belonging to “Dhangar” which is dated 12.06.2003. It is through inadvertence that the Petitioner had not submitted the Caste Certificate. The Returning Officer relied upon Section 10(1A) of the Maharashtra Village Panchayat Act, which enjoins upon a candidate to submit his or her Caste Certificate as well as Caste Validity Certificate or a receipt showing that he or she has submitted his or her Caste Certificate for validation. It is trite that by issuance of Caste Validity Certificate the caste claim as mentioned in the Caste Certificate is validated or given authenticity. In the instant case, it is an undisputed fact that Petitioner had submitted her Caste Validity Certificate which stands on a higher footing than a Caste Certificate. Hence, assuming that the Caste Certificate was not submitted

by the Petitioner, though it is the case of the Learned Counsel for the Petitioner that it was immediately submitted to the authorities on the day of scrutiny, the said defect if any can only be said to be a minor defect and technical in nature. It is required to be borne in mind that the said issue has to be considered in the context of the right of the Petitioner to contest the elections. In my view, therefore, the impugned order dated 21.07.2015 is required to be quashed and set aside and is accordingly quashed and set aside. The Returning Officer is directed to accept the nomination of the Petitioner and her name be included in the list of validly nominated candidates and she should be allotted a symbol. The Petition is allowed to the aforesaid extent. Rule is accordingly made absolute with parties to bear their respective costs.

[R.M. SAVANT, J]