

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

WRIT PETITION NO.9011 OF 2015

Vaishali Devendra Desai ... Petitioner

V/s.

State of Maharashtra & ors. ... Respondents

Mr. S.S. Patwardhan for the petitioner.
Mr. Vikas Mali, AGP for the State.

**CORAM : NARESH H. PATIL AND
S.B. SHUKRE, JJ.**

8th September, 2015.

P.C.

The petitioner filed a nomination paper for contesting election for the post of Sarpanch. In accordance with the provisions of Section 30-1A of the Maharashtra Village Panchayats Act, alongwith the nomination paper, following documents are to be submitted:

- (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.

The petitioner complied with the provisions of clause (i) of Section 30-1A. The nomination paper was rejected not only on the said ground but on the ground that the validity certificate was not submitted.

2. Learned Counsel appearing for the petitioner submits that in accordance with the amended provisions of Section 30-1A the condition to submit the validity certificate alongwith nomination papers was relaxed in cases where elections for the post of Sarpanch were held wherein the last date of filing of nomination fell on or before 31st December, 2015. The Returning Officer misdirected himself in appreciating this position of law. Learned Counsel submitted that non-compliance of provisions of Section 30-1A is a curable defect and during scrutiny the petitioner could have cured the defect. It is further submitted that Returning Officer could reject the nomination papers if it does not satisfy the provisions of any of Rules 6,7 or 8 and not otherwise.

3. Learned AGP submits that in accordance with the provisions of law the nomination paper was rejected. The Returning Officer rejected three nomination papers. Learned AGP submits that there were in all three nomination papers filed.

4. We are, prima-facie, of the view that the Returning Officer committed error in not considering the provisions of amended proviso to Section 30-1A wherein in the Principal Act, in the first proviso, for the words, figures and letters "before the 31st December, 2013" the words, figures and letters "before the 31st December, 2015" were substituted.

5. After considering the record and the provisions of law, we are of the view that petitioner failed to comply with mandatory requirement of filing of a valid nomination form.

6. We direct the Collector to take note of the view adopted by the Returning Officer and verify as to whether the amended provisions of the Act were brought to the notice of the Returning Officer. We are not inclined to interfere in exercise of extraordinary writ jurisdiction. The petitioner is at liberty to resort to alternate remedy as may be available in law. Petition is dismissed.

7. Registry is directed to forward copy of this order to the Collector, Nashik.

(S.B. SHUKRE, J.)

(NARESH H. PATIL, J.)

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment / Order.