

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10632 OF 2015

Sou. Sujata R. Londhe .. Petitioner
vs.
State of Maharashtra and ors. .. Respondents

Mr. Sumit V. Khair for the Petitioner.
Mr. S.D. Rayrikar, AGP for Respondent No.1.
Mr. S.B. Shetye for Respondent No.2.

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 papers on the mistaken belief that the Petitioner has applied for withdrawal of the same.

3] It is the case of the Petitioner that she has applied for withdrawal of nomination only insofar as the reserved candidature is concerned. At this stage, it is not possible to appreciate the merits or otherwise of the Petitioner's contentions. This is because the election process is already under way. The actual poll is scheduled on 1 November 2015. Section 15 of The Maharashtra Village Panchayats Act, 1959 ('said Act') provides for remedy by way of

Election Petition. The wrongful rejection of the Petitioner's nomination form is a ground contemplated by Section 15 of the said Act. 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.

4] 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.

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

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

(M. S. SONAK, J.)

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