

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.4275 of 2015

(Atmaram s/o Gajanan Belokar v. State Election Commissioner, Mumbai and others)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's order

Court's or Judge's orders

Shri A.B. Mirza, Advocate for Petitioner.

Shri K.L. Dharmadhikari, Assistant Government Pleader for
Respondent Nos.1 to 4.

Shri A.S. Dhore, holding for Shri Kashid, Advocates for Intervener.

Coram : R.K. Deshpande, J.

Date : 26th August, 2015

On 24-7-2015, this Court passed an order as under :

“ Heard Shri A.B. Mirza, the learned advocate for the petitioner and Shri K.L. Dharmadhikari, the learned A.G.P. for respondents 1 to 4.

The grievance of the petitioner is that his nomination paper has been wrongly rejected on the ground that petitioner has not annexed the copies of caste certificate and the acknowledgment issued by the Scrutiny Committee showing that the caste claim of the petitioner is pending for verification. The submission on behalf of the petitioner is that he had submitted the copies of all the required documents along with the nomination paper.

The receipt issued by the Caste Scrutiny Committee is dated 30th April, 2015. It is clear that the petitioner was conscious about the fact that he is required to produce the documents along with the nomination paper. There is no reason, at this stage, to disbelieve the contentions of the petitioner.

Notice, returnable on 11th August, 2015.

By an ad-interim order the respondent no.4-Returning Officer is directed to provisionally accept the nomination paper of the petitioner and to include the name of the petitioner in the list of validly nominated candidates for the elections of the Grampanchayat scheduled for 4th August, 2015.

The respondent no.4-Returning Officer is directed to take all the consequential necessary steps in the matter including the allotment of symbol.

The result of the elections shall not be declared until further orders of this Court.

Shri Dharmadhikari, the learned A.G.P. waives notice for the respondents 1 to 4.”

The respondent No.4-Returning Officer has filed the reply on affidavit stating therein that except the caste certificate or the receipt/acknowledgment as regard the submission of the caste papers for caste validity, the other relevant documents were submitted along with the nomination form by the petitioner. It is the further stand taken that at the time of scrutiny, i.e. on 21-7-2015, the Returning Officer asked the petitioner to submit the caste certificate and the acknowledgment showing that his caste validity is pending before the appropriate authority. The petitioner shown his inability to produce it and, therefore, the statement was recorded and accordingly the nomination form was rejected.

The petitioner submits that along with the nomination form, he had submitted the caste certificate and also the acknowledgment

showing that his caste claim was pending for scrutiny before the Caste Scrutiny Committee on the date of filing of the nomination paper. This is a disputed question of fact, and hence though this Court had directed to provisionally accept the nomination paper, there cannot be any adjudication over the disputed question of fact.

In view of above, no interference is called for in the order impugned. The petition is dismissed.

The petitioner is at liberty to file an election petition challenging the election on the ground of improper rejection of his nomination paper, as is available in law. The respondent-Returning Officer is directed to declare the result of the election, ignoring the fact that the nomination paper filed by the petitioner was provisionally accepted and he was allowed to contest the election.

Judge.