

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

WRIT PETITION NO. 4318 OF 2016

Jaya Sambhaji Bavaskar

... Petitioner

Versus

Returning Officer / Tahsildar,
Bhokardan and another

... Respondents

.....
Mr. Sagar S. Phatale h/f Mr. M. S. Deshmukh, Advocate for
petitioner
Mr. S. T. Shelke, Advocate for respondent No.1
.....

CORAM : SUNIL P. DESHMUKH, J.

DATE : 13th APRIL, 2016

ORDER :

1. Heard learned counsel for petitioner and respondent No.1.

2. Petitioner purports to have been aggrieved by rejection of her nomination by respondent No.1 to a seat reserved for other backward class (woman) category in the ensuing bye-elections for want of availability of requisite caste validity certificate, and rejection of her appeal being Election Appeal No.1 of 2016 by the Ad-hoc District Judge-1, Jalna under order dated 7th April, 2016.

3. Learned counsel purports to submit that since it is an ensuing bye-election, the rigor of provisions may not apply with the same force as it may while general elections take place.

4. Learned counsel for respondent No.1, however, takes a very firm stand on the same, contending that there is no difference as far as applicability of rules for general elections and bye-elections are concerned and that the bye-elections are also governed by same terms and conditions.

5. Perusal of the judgment in aforestated Appeal No.1 of 2016 shows that the Ad-hoc District Judge-1 has elaborately considered the matter and discussed the provisions and the rulings which were cited in support of the rival claims.

6. The Ad-hoc District Judge-1 has taken into account of Section 12-A of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, which reads as under;

“Every person desirous of contesting election to a seat reserved for Scheduled Castes, Scheduled Tribes or, as the case may be, Backward Class of Citizens, shall be required to submit, alongwith the nomination paper, Caste Certificate

issued by the Competent Authority and the Validity Certificate issued by the Competent Authority and the Validity Certificate issued by the Scrutiny Committee in accordance with the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (*Vimukta Jatis*), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 (Mah. XXIII of 2001)”

7. The learned Judge has referred to the factual position as under;

“25] In the present case appellants have submitted their respective Caste Certificates along with their nomination Forms but they have not submitted along with nomination form their Castes Validity certificate issued by Caste Scrutiny Committee. Thus, I would like to say that appellants have committed breach of section 12-A. It is Mandatory one. In such circumstances, on that count Returning Officer, has invalidated their Nomination Form”.

8. Learned Judge has also taken into account a citation in the case of *Returning Officer, Hingoli Vs. Kantabai Balaji Suryawanshi*, 2012(3) *Maharashtra Law Journal* – 204.

9. The reasons as are given by District Judge under paragraph No.30 of his judgment, appear to be infallible and thus, no interference is called for at this stage.

10. Writ petition, as such, stands rejected.

(SUNIL P. DESHMUKH, J.)

sms