

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

WRIT PETITION NO. 10844 OF 2015

Vikram (Ganesh) Kisan Sonawane .. Petitioner

Versus

Sunil Chudaman Patil and others .. Respondents

Shri Vinod Prakash Patil, Advocate for the Petitioner.

Shri B. S. Deshmukh, Advocate for the Respondent No. 1.

Shri Sandip C. Swami, Advocate h/f Shri V. D. Gunale, Advocate
for the Respondent No. 2.

Shri S. T. Shelke, Advocate for the Respondent No. 3.

Shri S. B. Pulkundwar, A. G. P. for the Respondent No. 4.

**CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.**

DATE : 16TH JUNE, 2016.

PER COURT :

. Mr. Patil, the learned counsel for the petitioner submits that, the petitioner and the respondent No. 1 had contested the election of corporator of Municipal Corporation. The respondent No. 1 was declared elected. The petitioner raised an objection with regard to the nomination paper. The respondent No. 1 suppressed that he owns certain properties. Two properties owned by the respondent No. 1 were not detailed in the affidavit filed by him along with the nomination paper. According to the learned counsel, the said property was intentionally suppressed.

The 7/12 extract filed on record would show that the said two properties bearing Survey No. 271 part belongs to respondent No. 1. So also the respondent No. 1 held the plot in Survey No. 251 part. According to the learned counsel, the Commissioner without applying his mind dismissed the complaint. The learned counsel submits that, as per Section 125 (A) of the Representation of Peoples Act, the action ought to have been initiated against the respondent No. 1. The respondent No. 1 has not been in a position to show that at the relevant time he did not own the property.

2. Mr. Deshmukh, the learned counsel appears for the respondent No. 1 and submits that on the date nomination was filled in, the property in question was owned by a partnership firm and not by the respondent No. 1 individually.

3. The learned counsel for respondent No. 2 also supports the contention of the learned counsel for the respondent No. 1.

4. We have also heard Mr. Shelke, the learned counsel for the respondent No. 3.

5. We have considered the submissions canvassed by the learned counsel for respective parties.

6. There can not be any dispute with the proposition that the candidate while filling the nomination paper has to make a true and faithful disclosure of all the properties owned by him. The nomination paper and the affidavit with the nomination paper is filed on record. Various immovable properties owned by the respondent No. 1 have been detailed in the said affidavit by the respondent No.1. The details of as many as nine properties owned by the respondent No.1 have been stated. It has also been stated that the respondent No. 1 has a share in Tulsi Construction Company.

7. It has been observed by the Commissioner that on the relevant date i. e. on the date of filling in nomination, the property as contended by the petitioner was owned by the partnership firm in which the respondent No. 1 was a partner and the same was not owned by the respondent No. 1. The said observation was made after going through the documents produced on record. It also appears that subsequently said properties are sold and names of different persons are recorded.

8. It has also been observed that, at the time of scrutiny of the nomination papers, no objection was raised by the petitioner to the said nomination paper.

9. Considering the aforesaid aspects of the matter no case for interference is made out. The Writ Petition as such is disposed of. No costs.

[K. K. SONAWANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/June 16