

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

9 WRIT PETITION NO. 11142 OF 2016

USHA BALASAHEB PUND
VERSUS
SUB DIVISIONAL OFFICER SANGAMNER AND OTHERS

Shri. A.N. Nagargoje, Advocate, for petitioner.

Shri. S.T. Shelke, Advocate, for respondent No.1.

Shri. B.A. Shinde, Assistant Government Pleader, for
respondent No.5.

CORAM: T.V. NALAWADE, J.

DATE : 15 NOVEMBER 2016

ORDER:

1) The petition is filed to challenge the order of rejection of nomination form of the petitioner and also the decision given by the District Court in Election Appeal No.1/2016. The appeal is dismissed by the District Court Sangamner. Heard both the sides.

2) The petitioner had filed nomination form to contest the election to the post of Councillor of Sangamner Municipal Council. The last date for filing nomination form was 29-10-2016 till 3.00 p.m. She filed

nomination to contest the post from ward No.1-A which was reserved for O.B.C. Woman candidates. She did not produce along with nomination form the caste certificate to show that she belongs to O.B.C. category and so her nomination came to be rejected on this ground on 2-11-2016.

3) Learned counsel for the petitioner submitted that the petitioner had sent the matter to the Caste Scrutiny Committee by paying charges on 29-10-2016 and the petitioner had produced the receipt of Rs.500/- paid as charges of the Caste Scrutiny Committee. He submitted that in view of this record the nomination form could not have been rejected.

4) This Court has carefully gone through the provision of Section 9-A of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 and Rules 12(4) and 13(4) of the Maharashtra Municipal Councils and Nagar Panchayats Election Rules, 1966. The section shows that along with the nomination form caste certificate needs to be annexed. In addition to caste certificate, caste validity certificate also needs to

be annexed. By issuing notifications the State Government has given concession to such candidates to produce caste validity certificate within six months from the date of election provided that the candidate produces record to show that the matter is already referred to the Caste Scrutiny Committee. Thus, it is mandatory to produce caste certificate along with the nomination form. Further, it appears that the caste certificate was issued in the name of Kumari Mhaske Usha Maruti and the candidate had filed nomination in the name of Usha Balasaheb Pund. It appears that there is possibility that attempt was made to avoid to produce the caste certificate. Due to this circumstance only receipt of payment of charges was produced. This defect is of substantial character and similar finding is given by the District Court. Considering the requirement of production of such certificate along with the nomination form this Court holds that it is not possible to interfere in the order made by the returning officer and the decision given by the District Court. In the result, the petition stands dismissed.

Sd/-
(T.V. NALAWADE, J.)

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