

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

5 WRIT PETITION NO. 11138 OF 2016

SUNITA ASHOK HINGE
VERSUS
THE RETURNING OFFICER BEED AND OTHERS

Shri. Nitin V. Gaware, Advocate, for petitioner.

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

CORAM: T.V. NALAWADE, J.

DATE : 15 NOVEMBER 2016

ORDER:

1) The petition is filed to challenge the order of rejection of nomination form made by the Returning Officer and also the decision given by the learned Judge of the District Court Beed by which the Election Appeal No.9/2016 filed by the present petitioner is dismissed. Heard both the sides.

2) The nomination form of the present petitioner for the election to Municipal Council Beed is rejected on the ground that the nomination form was not signed by the petitioner. Though in the order by mistake it was

mentioned that the declaration form was not signed, actually the nomination form itself was not signed.

3) Learned counsel for the petitioner placed reliance on many reported and unreported cases as follows :-

- (i) **AIR 2012 SC 2648 (Shambhu Prasad Sharma v. Shri Charandas Mahant);**
- (ii) **2013 AIR SCW 5320 (Resurgence India v. Election Commission of India);**
- (iii) **Writ Petition (Stamp) No.30085/2012 (Shrikrishna Vaijinath Mate v. The State Election Commission) (Aurangabad Bench) decided on 19 November 2012.**
- (iv) **Writ Petition No.9428/2012 (Bappasaheb Rajendra Hawale v. The State Election Commission) along with connected matters (Aurangabad Bench) decided on 20 November 2012.**

4) He submitted that this Court had allowed the proceeding when the declaration was not signed by the candidate.

5) The Apex Court and this Court have discussed the purpose behind the declaration and the affidavit. Some times on some occasions, blanks were allowed to be

filled from the affidavits and the material in respect of declaration was allowed to be produced in view the objections taken. Learned counsel for the Election Commission drew attention of this Court to Rules 12(2) and 13(2)(c) of the Maharashtra Municipal Councils And Nagar Panchayats Election Rules, 1966 and submitted that in view of provision of Rule 12(2) the nomination itself was not filed as nomination form was not signed and it cannot be said that the defect was not of substantial character. Similar reasoning is given by the first appellate Court. As the nomination itself was not by complete nomination form as provided in Rule 12(2), it is not possible to interfere in the order made by the Returning Officer and the decision given by the District Court. The petition stands dismissed.

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

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