

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

WRIT PETITION NO. 11294 OF 2016

Abdul Hafij Abdul Ajij

..PETITIONER

VERSUS

Returning Officer, Jalna Nagar Parishad,
Jalna and Others

..RESPONDENTS

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Mr. U.D. Dalvi, Advocate for petitioner.
Mr. A.P. Basarkar, A.G.P. for Respondent – State.
Mr. S.T. Shelke, Advocate for Respondent No.1.
Mr. S.J. Salunke, Advocate for Respondent No.2.

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**CORAM : T.V. NALAWADE, J.
DATED : 17th NOVEMBER, 2016**

ORDER :

1. The petition is filed to challenge the decision given by District Judge, Jalna in Election Appeal No. 18 of 2016. Both sides are heard.
2. The petitioner had filed nomination form for election to the Ward No. 4(B) of Municipal Council, Jalna. The objection was taken to the nomination form that the applicant – present petitioner was having more than two issues and most of the issues were borne after the relevant date i.e. 12th September, 2001. The record like copies of Aadhar Card

issued in favour of four issues of the petitioner was produced. The record was to effect that he was having following issues with their birth dates:-

1. Farha Shaikh Abdul Hafiz - 02/02/1997
2. Saniya Shaikh Abdul Hafiz - 01/11/2001
3. Abdul Kaif Abdul Hafiz - 10/06/2003
4. Abdul Saif Abdul Hafiz - 18/06/2007

3. In nomination form, petitioner had made declaration that he was having two issues and both were borne before the relevant date. This decision was challenged by filing appeal in the District Court. In District Court, the petitioner did not appear in spite of service of notice on him as provided under Rule 15 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Rules, 1966. The District Judge held that aforesaid record is sufficient to make out the case in summary enquiry and he is not eligible to contest the election.

4. Learned Counsel for petitioner submitted that Aadhar Card cannot be used as proof of aforesaid contention. This submission itself is not acceptable. Aadhar Card in respect of minors are issued only when parents apply for same and such Aadhar Card can be taken as admission for aforesaid contention. The similarity in the surname, name of father and residence is sufficient for the present purpose.

5. Learned Counsel for petitioner submitted that notice of appeal was not served on the petitioner and so the District Judge ought not to have decided the matter in the absence of petitioner. This submission is not acceptable. This Court and District Court is expected to presume that procedure under Rule 15(3A) of the aforesaid Rules was followed.

6. In view of these circumstances and as subjective satisfaction of the Returning Officer and District Court are involved in the matter, this Court holds that it is not possible to interfere in the order made by the District Court. In the result, petition stands dismissed. The observations made are for present proceeding only. It will be open to the petitioner to go for election petition. Parties to act on authenticate copy of this order.

(T.V. NALAWADE, J.)

SSD