

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 11185 OF 2016

Najranabegum W/o. Javed Qureshi (Khatik)

Age : 35 years, Occu: Household,

R/o- Qureshi Mohala, Ambad.

District Jalna

....Petitioner

VERSUS

The State of Maharashtra

and others

...Respondents

...

Mr. D.P. Palodkar h/f Mr. S. A. Deshmukh, Advocate for petitioner.

Mr. S.T. Shelke, Advocate for respondent/Returning Officer.

Mr. R.B. Bagul, A.G.P. for respondent/State.

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CORAM : T.V. NALAWADE, J.

Date : 16th November, 2016.

ORDER :

1 The petition is filed to challenge the order made by Returning Officer by which the nomination form of the present petitioner is rejected and also to challenge the decision given by the District Court in Election Appeal No. 03 of 2016. Both the sides are heard.

2 The petitioner had filed nomination form to contest the election to Municipal Council, Ambad (from Ward No. 7-A) as

the candidate of a political party. During scrutiny, the nomination form came to be rejected as there was objection that third issue was born to petitioner after the relevant date i.e. after 12-09-2001 and so she was not eligible to contest the election. District Court has held that there was material on the basis of which such order could have been made by the Returning Officer and it was not possible to interfere in the order made by Returning Officer.

3. Before the Returning Officer there was the contention that the petitioner was having more issues then two and the third issue by name Shahabaz was born on 6-5-2005. The petitioner admitted that she was having two issue like a daughter by name Mehak and son by name by Arbaz. But, she denied that Shahabaz was born to her. A certificate issued by Zilla Parishad School of Ambad was produced to show that a boy by name Shahabaz Javed Kureshi was born to present petitioner Nazrana and he was admitted in the school on 26-6-2014. In view of this record, the nomination form was rejected. It appears that before the District Judge more record was produced to show that petitioner was having other issue like Fareena and extract issued by the same School in respect of her admission in the year 2013 was produced. Her date of birth is shown as 01-06-2007.

4. The learned counsel for petitioner submitted that Shahabaz was born to Jaibunnisa and the name of father of said Shahabaz was Javed and there is possibility that due to similarity in the name some record was created. Record of entry made in school register of Jain English School, Ambad is produce in this regard. But that record shows that date of birth of this boy was different. It appears that on 23-10-2015 Javed Kureshi, husband of present petitioner had filed application for correction in the name of mother of Shahabaz to make it Jaibunnisa. This circumstance cannot help to the petitioner in any way, at least in a proceeding like present one. When other boy by name Javed was studying in Jain English School and there was record of other school which is Zilla Parishad School, Ambad against the present petitioner, such circumstances cannot be considered. In the present proceeding affidavit of the husband of the present petitioner and affidavit of one Javed Hasan Kureshi is produced in support of the contention that Shahabaz is a son of Javed Hamid Kureshi. In view of the aforesaid record, this Court holds that such affidavits cannot help the present petitioner at least at this stage. This Court holds that it will be open to the present petitioner to challenge the election itself as more scrutiny is not possible in the matter like present

one. In the result, petition stands dismissed.

[T.V. NALAWADE, J.]

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