

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

913 WRIT PETITION NO. 11182 OF 2016

SAYAD MOINUDDIN BASHIRUDDIN
VERSUS
THE RETURNING OFFICER BEED AND OTHERS

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Advocate for Petitioner : Gaware Niteen V.
Advocate for Respondent 1 : S.T. Shelke
Advocate for Respondent 5 : Sayyed Tauseef Yaseen

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CORAM : T.V. NALAWADE, J.
DATED : 16th November, 2016.

ORDER :

1. The petition is filed to challenge the order made by Returning Officer and also the decision of Election Appeal. The nomination form of the present petitioner to the election of Beed Municipal Council from Ward No. 14-B is rejected on the ground that there is no signature on the verification of nomination form.

2. The petitioner wanted to contest the election as independent candidate. He had signed at one place of the nomination form, but he had not signed at the other place which is the verification of the contents of the nomination form. The verification includes the declaration that the candidate had given consent to the nomination. It includes the declaration in respect of his age, eligibility etc. and he is also expected to

declare that he has not taken any contract of the Local Body and he is not liable to pay any dues to the Local Body.

3. Rule 12 (1) and 13(4) of the Maharashtra Municipal Councils, Nagar Panchayats Election Rules 1966 are relevant in the present matter. The Rules show that nomination form should be complete as mentioned in Rule 12 and the verification part of the nomination form is a part of the application.

4. The learned counsel for petitioner submitted that the defect is not of substantial character as described in Rule 13 (4) in the aforesaid Rules and on the aforesaid ground, nomination form could not have been rejected. He placed reliance on the observations made by this Court in **Writ Petition No. 9428/2012 and other connected matters [Bappasaheb s/o. Rajendra Hawale Vs. The State Election Commission and Ors.] decided on 20.11.2012** and **Writ Petition St. No. 30085/2012 [Shrikrishna Vaijinath Mate Vs. The State Election Commission and Ors] decided on 19.11.2012**. In the first proceeding, the defect was in respect of the declaration which is required to be annexed along with the nomination form and that can be seen from paragraph Nos. 6 and 8 of the order. It was part of Annexure II and it was not bearing signature/thumb

impression of the candidate. It was held that as the defect was in Annexure II, it was not defect of substantial character. The reasoning for that is given in the order. The facts of the present matter are altogether different. This Court holds that the aforesaid observations are of no help to the petitioner in the present matter as nomination form itself is not complete and as it is not bearing the signature on verification of the contents of the application. In the second matter, the facts are not mentioned in the copy of the order dated 19.11.2012 produced before this Court. At paragraph No. 3, there is mention of declaration and then there is mention of verification. From the contents of paragraph No. 3, it can be said that there is clear possibility that there was defect like absence of signature on verification of declaration which is a part of Annexure II. Thus, the second order is also of no use to the petitioner. This Court holds that at this stage, it is not possible to interfere in the order made by the Returning Officer which is confirmed by the District Court. So, the petition stands dismissed.

[T.V. NALAWADE, J.]

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