

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

WRIT PETITION NO. 11248 OF 2016

SANGRAM ASHOK JADHAV
VS.
THE MAHARASHTRA STATE ELECTION COMMISSION MUMBAI AND
ORS.

...
Advocate for petitioner : V.G. Salgare
AGP for State : S.K. Tambe
Advocate for Returning Officer : S.T. Shelke
...

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

ORDER :

1. The petition is filed to challenge the order of rejection of nomination paper made by the Returning Officer and also the order made by the learned District Judge in Election Petition No. 1/2016 which was pending in District Court, Shrirampur. The learned counsel for petitioner and the learned counsel for Returning Officer are heard.

2. The nomination form of the present petitioner which was filed to contest the election to Shrirampur Municipal Council is rejected by the Returning Officer on the ground that caste certificate and caste validity certificate were not annexed along with the nomination papers. It appears that to challenge this order of Returning Officer, Election Petition was filed when

appeal ought to have been filed under Rule 15 (2) of the Maharashtra Municipal Councils and Nagar Panchayats Election Rules, 1966. The District Judge took this technicality seriously and held that Election Petition was not maintainable and dismissed the proceeding. Though it can be said that the proceeding could have been treated as appeal as provided under aforesaid Rule, the fact remains that on 11.11.2016 the proceeding came to be dismissed which was election proceeding. It appears that in view of the pendency of the matter in the District Court, the period was extended by three days and the date of withdrawal was extended to 16.11.2016 till 11.00 a.m. i.e. till today.

3. The learned counsel for petitioner submitted that along with the nomination form the candidate had filed caste certificate and receipt in respect of the amount deposited for sending the matter for caste verification is also submitted. Copy of caste certificate is produced in this proceeding. It is disputed that caste certificate was produced along with nomination form. In addition to that there are aforesaid circumstances. In view of these circumstances, this Court holds that it is advisable that this matter is agitated in election petition.

4. In the result, the petition stands dismissed. Liberty is there to file election petition. All points are kept open.

[T.V. NALAWADE, J.]

ssc/