

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12179 OF 2016
(Vaishali Ramesh Pakhare Vs. The State of Maharashtra
and others)

Mr. Nanasaheb N. Shinde, Advocate for the Petitioner
Mr. A.S. Shinde, A.G.P. for the respondent/State
Mr. S.T. Shelke, Advocate for respondent Nos. 3 and 4

CORAM : R.M. BORDE AND
SANGITRAO S. PATIL, JJ.

DATE : 8th December, 2016

PER COURT :

Heard.

2. The petitioner is objecting to the order, dated 28th November, 2016, passed by the Returning Officer, directing acceptance of nomination paper presented by respondent No. 5. The petitioner contends that although he raised oral objection in respect of candidature of other candidates, that has not been considered. On perusal of the objection application tendered on 28th November, 2016 and more particularly the prayers made therein, it would appear that the objection is raised in respect of the candidature of respondent No. 5.

3. The petitioner contends that although the proposal for issuance of validation certificate has been referred to Scrutiny Committee number of years back, the matter has not been yet decided by the Scrutiny Committee and respondent No. 5 is instrumental in keeping the matter pending for number of years. It is contended that respondent No. 5 is illegally securing the benefits, which are available for the candidate/s belonging to Scheduled Caste.

4. It is not a matter of dispute that respondent No. 5 is in receipt of the caste certificate, issued by the Competent Authority and the said certificate is referred to the Scrutiny Committee for verification and the proposal in respect of verification of the caste certificate issued to respondent No. 5 is pending for consideration before the competent Scrutiny Committee. In view of the amended provisions of Section 10 (1) (A) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, respondent No. 5 is entitled to contest the election on satisfaction of the conditions laid down under the relevant provision. Respondent No. 5 satisfies the conditions laid down in

the amended provisions and as such, the Returning Officer was justified in directing acceptance of the nomination paper.

5. The order passed by the Returning Officer has been confirmed by the Appellate Authority i.e. District Judge-1, Aurangabad. We have perused the order passed by the District Judge-1 in Election Petition No. 1/2016. We do not find any inconsistency or error in the reasons recorded by the learned District Judge-1 while dismissing the Election Petition. In exercise of extraordinary jurisdiction conferred on this Court under Article 226 of the Constitution of India, no interference is called for. The Writ Petition is devoid of substance and hence, stands dismissed.

[SANGITRAO S. PATIL]
JUDGE

[R.M. BORDE]
JUDGE