

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12349 OF 2016

Sau Bhavna Ajay Patil

Petitioner

Versus

Returning Officer for Election of
Municipal Council, Bhusawal and another

Respondents

Mr. Mahesh S. Deshmukh advocate for the petitioner

Mr. S.P.Tiwari, AGP for Respondents

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

(Date : 21st December, 2016.)

PER COURT :-

1 The petitioner is objecting to the order passed by the Returning Officer, rejecting her nomination papers for contesting elections to the post of President as well as Councillor of the Municipal Council.

2 Admittedly, the petitioner was disqualified under section 3(1)(b) of the Maharashtra Local Authorities Members Disqualification Act, 1986. The order of disqualification issued on 1.10.2015 is construed as a bar for contesting elections of President, by the Returning Officer and order passed by the

Returning Officer has been confirmed by the District Judge while disposing the Appeal presented by the petitioner under Rule 15 of the Maharashtra Municipal Council Election Rules, 1966.

3 The petitioner contends that, the election process is over and that she has availed of remedy of presenting election petition under section 21 of the Maharashtra Municipal Councils, Nagar Panchayats & Industrial Township Act, 1965. The petitioner apprehends that the order passed by the Appellate Forum under Rule 15 during continuance of process of election would be a bar for consideration of a challenge raised by the petitioner in the election petition.

4 The apprehension expressed by the petitioner appears to be unfounded. A voter/member desirous of contesting election, whose nomination paper is rejected, is entitled to raise a dispute, in respect of election or nomination of a Councillor or President by taking recourse to section 21 of the Act of 1965. There is nothing in provisions of section 21 or in any other provision debarring a disputant to raise such a ground in the election petition. It would be thus, open for the petitioner to raise a ground in respect of wrongful rejection of her nomination papers in the election petition, which according to petitioner has been presented. In

view of pendency of a election petition presented by the petitioner, the instant petition need not be considered.

5 Writ petition is accordingly disposed of.

(SANGITRAO S. PATIL, J)

(R.M.BORDE, J)

vbd