

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12782 OF 2016

Deepak Raghunath Dhere

..Petitioner.

Vs

Returning Election Officer and
Ors.

.. Respondents

Mr. Ganesh Sovani , Advocate for petitioner.

Mr. Akshay P. Shinde, Advocate for Respondent no.1.

Mr. Abhijeet Desai, Advocate for Respondent no.2.

Mr. Sachin Shetye, for newly added respondent-State Election
Commission.

CORAM : R.G.KETKAR,J.

DATE : 16/11/2016

PC:

1. Not on Board. At the request of Mr. Sovani, taken up for admission. Heard Mr. Ganesh Sovani, learned counsel for the petitioner, Mr. Akshay Shinde, learned counsel for respondent no.1 and Mr. Abhijeet Desai, learned counsel for respondent no.2 at length. Leave to amend so as to implead State Election Commission is granted. Amendment shall be carried out forthwith.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 2.11.2016 passed by the Returning Officer as also the Judgment and order dated 10.11.2016 passed by the learned District Judge-1, Ichalkarnji in Election Appeal No. 5 of 2016. By order dated 2.11.2016, the Returning Officer overruled the objections raised by the petitioner. Aggrieved by that order, the petitioner

instituted Appeal before the learned District Judge. By order dated 10.11.2016, the learned District Judge has dismissed the Appeal.

3. In support of this petition, Mr.Sovani submitted that the order dated 2.11.2016 passed by the Returning Officer is contradictory. In the opening paragraph of that order, the returning officer noted that the petitioner has raised objections to the nomination form of respondent no.2-Sagar Anandrao Chalake during the scrutiny of nomination. However, the Returning Officer observed that the objections were raised by the petitioner after nomination filed by respondent no.2 was declared as valid. It was further observed that the objections are to be considered by the Returning Officer before declaring the nomination to be valid or invalid. As the petitioner herein did not raise objections before declaration of respondent no.2's nomination as valid, the objections raised by the petitioner cannot be taken into consideration. He further submitted that wife of respondent no.2 had filed nomination form from Ward No.25B. The Returning Officer accepted her nomination. Aggrieved by that decision, Appeal was preferred before the learned District Judge by Anjali Madan Jadhav. The learned District Judge who passed the impugned order allowed that appeal. He invited my attention to paragraph 16 of the impugned order and submitted that for the reasons recorded in appeal preferred by Anjali Jadhav, the

learned District Judge ought to have allowed the appeal preferred by the petitioner. He, therefore, submitted that the impugned orders deserve to be set aside thereby rejecting nomination form of respondent no.2.

4. On the other hand, Mr.Shetye supported the impugned orders. Relying upon the decision of this Court in Vijaykumar Maniklal Bang Vs State of Maharashtra, 1997 (1) Mh.L.J. 637, he submitted that list of validly nominated candidates is already published and symbols are also allotted. This Court will not interfere with the election process.

5. I have considered the rival submissions advanced by the learned counsel appearing for the parties. I have also perused the material on record. As noted earlier, list of validly nominated candidates is already published and symbols are already allotted. In view thereof, it is not possible to interfere with the election process at this stage when the polling is scheduled on 27.11.2016. Hence, Petition fails and the same is dismissed reserving liberty to the petitioner to file election dispute, if so advised.

(R.G.Ketkar, J.)