

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 3029 OF 2016

Dr. Santosh Appasaheb Kadam. .. Petitioner

Vs

State of Maharashtra and Others. .. Respondents

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Shri Sujay Kantawala along with Shri Karan Thackeray i/b India Law Alliance for the Petitioner.

Ms. Kavita Salunke, AGP for the Respondent Nos.1 to 4.

Ms. Nidhi Singh for the Respondent No.5.

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CORAM : A.S. OKA &
SMT. ANUJA PRABHUDESSAI, JJ

DATED : 18TH NOVEMBER 2016

PC.:

1. Not on board. Taken on board.

2. Heard learned counsel appearing for the Petitioner. This Petition concerns the list of validly nominated contesting candidates published by the Returning Officer for holding election of Maharashtra Medical Council which is scheduled to be held on 18th December 2016. The learned counsel appearing for the Petitioner pointed out that his nomination was found to be valid by the Returning Officer as can be seen from Exhibit-A, but ultimately, in the list published on 7th November 2016 of the contesting candidates, his name has disappeared.

3. Learned counsel appearing for the Petitioner submits that admittedly, the Petitioner had written a letter of withdrawal of his candidature and has handed over it to a group of Doctors. He states that on 21st October 2016, he had addressed a letter to the Returning Officer requesting him to call the Petitioner in person if any letter of withdrawal is submitted by any one on his behalf. He pointed out that on 8th November 2016, a protest was lodged by the Petitioner with the Returning Officer that notwithstanding the letter dated 21st October 2016, his letter of withdrawal has been acted upon.

4. Inviting our attention to the judgment and order dated 7th October 2016 passed by a Division Bench of this Court in Writ Petition No.2021 of 2016 and other connected matters, he submitted that an assurance was given that election will be conducted in a free, fair and lawful manner.

5. We have considered the submissions. The Petitioner seeks a writ of mandamus directing withdrawal of the list of contested candidates published on 7th November 2016 and wants publication of a fresh list including his name. He wants a relief directing the Respondents not to print ballot papers till his name is included. Grant of such relief will amount to interference with the process of election

which has been already commenced. As stated earlier, the list of contesting candidates was published on 7th November 2016.

6. Moreover, the Petitioner himself accepts that he had signed the letter of withdrawal of his candidature.

7. Hence, at his stage, no interference can be made in writ jurisdiction under Article 226 of the Constitution of India. The Petition is accordingly rejected. However, it will be open for the Petitioner to challenge the result of the election on all permissible grounds including the grounds agitated in this Petition.

(SMT. ANUJA PRABHUDESSAI, J)

(A.S.OKA, J)