

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**WRIT PETITION NO.6634 OF 2014**

(SARITA SUDHAKAR DHURVE...VS..THE ELECTION RETURNING OFFICER & 4 OTH.)

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders  
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Court's or Judge's orders

**CORAM : Z.A.HAQ, J.**

**DATED : JANUARY 22, 2016.**

Heard Shri Vikas Kulsange, advocate for the petitioner and Shri N.R.Rode, A.G.P. for the respondent Nos.1 and 5. None appears for the other respondents.

The petitioner has challenged the order passed by the learned District Judge rejecting the application (Exh.17) filed by the petitioner praying that the election petition be dismissed as the findings recorded in the order passed in Election Appeal No. 2 of 2011 operates as *res judicata*.

The petitioner had submitted her nomination paper for election of the Municipal Council. The nomination paper of the petitioner was rejected by the Returning Officer on the ground that the petitioner, though had offered her candidature for the seat reserved for Scheduled Tribes candidate, she had not submitted Caste Validity Certificate issued by the Scrutiny Committee. The petitioner had filed Election Appeal No. 2 of 2011 which was allowed by the learned District Judge and it was directed that her nomination paper be accepted. Pursuant to the order passed by the learned District Judge in Election Appeal No.2 of 2011, the petitioner submitted her nomination paper, contested the election and is elected.

The respondent Nos. 2, 3 and 4 filed Election Petition No.2 of 2012 challenging the election of the petitioner on the ground that she had not submitted the Caste Validity Certificate and that her election is materially affected because of the malpractices committed by her in the election. The petitioner filed application (Exh.17) praying that the election petition be dismissed as the findings recorded in the order given in Election Appeal No. 2 of 2011 operates as *res judicata*. The learned District Judge has rejected this application. Being aggrieved by the above order, the petitioner has approached this Court.

Even if the contention of the petitioner, that the findings recorded in the order given in Election Appeal No. 2 of 2011 operates as *res judicata* is to be accepted the Election Appeal No. 2 of 2011 was only on the point of non-submission of the Caste Validity Certificate and therefore, the other challenges raised in Election Petition No. 2 of 2012 will not be hit by the findings recorded by the learned District Judge while deciding Election Appeal No. 2 of 2011. The learned District Judge has properly appreciated the controversy and has rightly rejected the application (Exh.17).

I find that the impugned order does not suffer from any patent illegality or error of jurisdiction which necessitates interference by this Court in the extraordinary writ jurisdiction.

The petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE