

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.1959 OF 2017

Rahul s/o Dnyanoba Suryawanshi ... PETITIONER

VERSUS

The State of Maharashtra
and others ... RESPONDENTS

.....
Shri U.B. Deshmukh, Advocate for petitioner
Shri S.K. Tambe, A.G.P. for State
Shri S.T. Shelke, Advocate for respondent No.2
Shri D.S. Mali, Advocate for respondent No.5
Shri P.A. Bhosale, Advocate for respondent No.6
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CORAM: S. B. SHUKRE, J.

DATED: 10th February, 2017.

ORAL ORDER :

1. Heard Mr. Deshmukh, learned counsel for the petitioner, learned A.G.P. for respondent No.1, Shri Shelke, learned counsel for respondent No.2, Shri Mali, learned counsel for respondent No.5 and Shri Bhosale, learned counsel for respondent No.6.

2. There is no doubt about the fact that at the time of

filing of the nomination paper, the petitioner had submitted proposal dated 7.4.2015 showing that the proposal for verification of his caste claim was pending before the Caste Scrutiny Committee. However, it emerged later on that before submission of the nomination paper, the proposal was returned to the petitioner by the Caste Scrutiny Committee on 5.1.2017. The petitioner admits that the proposal was returned to him, but it is his submission that it was returned only for removal of certain deficiencies, which he removed immediately and resubmitted the proposal on 1.2.2017 itself. He also submits that, after resubmission of the proposal, it was not given any fresh number, and the pendency of this proposal for verification of the caste claim stood revived. Thus, according to the petitioner, the District Judge ought not to have entertained the objection taken by the respondent No.1 in this respect.

3. The submission so made by the learned counsel for the petitioner, however, cannot be accepted, if one refers to the mandatory requirement of law, as stipulated in Section 12-A of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Act of 1961). Under proviso to this Section, it is necessary for a candidate to submit along with nomination paper true copy of the application preferred by him to the Scrutiny Committee or any other proof having made application to the Scrutiny Committee

and also an undertaking that he shall submit the validity certificate within a period of six months from the date of declaration of the elections. This rule makes it clear that if the candidate is not able to furnish true copy of the application, he should at least submit on oath proof of having made such an application to the Scrutiny Committee. In the instant case, the application was indeed made, but it was returned for removal of the deficiencies on 5/1/2017. With the return of the application, its status as a pending application ceased, and it could be said to be revived only when the application or the proposal was resubmitted after removal of the deficiencies. In the instant case, such resubmission has been made on 1/2/2017, the day on which the nomination form was submitted. But, on that date, no receipt showing such resubmission of the proposal was filed by the petitioner. Filing of such proof was necessary in view of the mandatory requirement of Rule 12-A of the Act of 1961. It is submitted by the petitioner that, the Returning Officer told him that it was not necessary for him to submit a fresh receipt and it would suffice if he filed along with the nomination paper the original receipt. I must say, the petitioner ought to have understood that when the proposal itself was returned to him and it was required to be resubmitted, the pendency of the proposal could not be said to have been revived till the time the proposal was resubmitted and, therefore, it was also necessary for him to

have enclosed along with the nomination form revival of the proposal before the Caste Scrutiny Committee. Since this has not been done by the petitioner, I do not see any illegality or perversity in the impugned order.

4. Even before the learned District Judge, it appears, the petitioner did not furnish the receipt showing revival of the pendency of the proposal before the Caste Scrutiny Committee. Therefore, no interference, at this stage, is warranted.

5. Learned counsel for the petitioner referred to the view taken by the Division Bench of this Court at Nagpur Bench in the case of Umakant Madhukar Suryawanshi Vs. The State of Maharashtra & ors., (Writ Petition No.1064/2016), decided on 11/3/2016, wherein the Division Bench has observed that, whenever it is the case of the petitioner that he has applied for verification of the caste claim and same has been returned to him with some deficiencies and that the petitioner is ready to cure the deficiencies by resubmission of the claim, liberty should be given to the petitioner. I must say, these observations have been made in the context of termination of the service of the petitioner therein and not in any election matter, wherein the principle that Courts must observe is that, they should be slow to interfere with the election process.

6. In the circumstances, I find no substance in the Writ Petition. Writ Petition stands rejected with costs.

7. However, it is made clear that the observations made in this order are confined to the challenge raised in this petition only and if any proceedings questioning the validity of elections are instituted, all the points would have to be decided appropriately in the light of facts and circumstances of those proceedings, without being influenced by the observations made in this order.

(S. B. SHUKRE)
JUDGE

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