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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.5141/2017

Suresh Nivrutti Pawar.

...Petitioner..

Versus

The State of Maharashtra & others.

...Respondents...

.....

Shri S.P. Urgunde, Advocate for petitioner.

Shri S.R. Yadav, AGP for respondent no.1.

Shri S.T. Shelke, Advocate for respondent nos.2 to 5.

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CORAM: M.S. SANKLECHA, J.

DATE: 17.04.2017

ORDER :

1] This petition under Articles 226 and 227 of the Constitution of India challenges the order dated 5.4.2017 passed by respondent no.5 – Returning Officer of General Election of 2017 to Latur Municipal Corporation. The impugned order has rejected the petitioner's objection to

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the acceptance of nomination forms of respondent nos.6 & 7. The polling for the election to the Municipal Corporation of Latur is scheduled on 19.4.2017.

2] The grievance of the petitioner is that the nomination forms of respondent nos.6 & 7 could not have been accepted as they are registered as voters in two separate constituencies namely Mauje Lamjana constituency and Latur constituency. This, according to the petitioner, is not permissible in view of Section 17 of the Representation of Peoples Act, 1950.

3] Mr.Shelke, learned counsel appearing for respondent nos.2 to 5 invites my attention to the decision of the Apex Court in *Baburao v. Manikrao* (**AIR 1999 SC 2028**) wherein similar challenge to acceptance of nomination and consequent election was negatived by the Apex Court. The Apex Court held that if a person finds his name in more than one constituency, would not by itself entail disqualification u/s 16 of the Representation of Peoples Act, 1950, to contest the election.

4] In the above view, no interference with impugned order dated 5.4.2017 is called for. In any event, in view of Article 243ZG of the Constitution of India, the

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remedy, if any, on being aggrieved in respect of election to a Corporation, lies under Section 16 of the Maharashtra Municipal Corporations Act, 1949, by filing an election petition. (See the decision of this Court in *Farook Ali Khan v. Maharashtra State Election Commission & others* (1998(2) Bom.C.R. 566).

5] Writ petition is dismissed. No order as to costs.

(M.S. SANKLECHA, J.)