

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8660 OF 2014
(Najama Begum Hanif Khan Pathan Vs.The State of Maharashtra and
others)

Mr.R.R.Imale, Advocate for the petitioner.
Mr.N.T.Bhagat, AGP for respondent Nos. 1 and 2.
Mr.Deelip Patil-Bankar, Advocate for respondent Nos. 3 and 4.
Mr.R.V.Gore, Advocate for respondent No.6.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 23/02/2017

PER COURT :

1. By the order dated 31/01/2017, I had directed the petitioner and her husband to file an affidavit alongwith certain documents. The order dated 31/01/2017 reads as under :-

“1 The name of the Petitioner mentioned in the memo of the petition and verification is Smt.Najma Begum Hanif Khan Pathan. It is submitted that it is her maiden name. Her marital name is Smt.Najma Begum w/o Abdul Razzak.

2 The document at page 50 which is the final voters list for the Aurangabad Municipal Corporation Elections, 2010, Ward No.27, Shatabdi Nagar, indicates the name of the Petitioner at Sr.No.3333. Her purported husband is said to be at Sr.No.3325. The Petitioner submits that the names at Sr.No.3333 and at Sr.No.3325, are not the Petitioner and her husband.

3 The Petitioner points out from the voters list (S-13), Maharashtra, Kannad State Legislature Constituency, District Aurangabad that the Petitioner's name is at Sr.No.186. The said name is Pathan Vajama Mohammad Hinak. Page 22 is the copy of the Election Commission Identity Card which also mentions the name of the Petitioner as Vajama Mohammad Hinak Pathan and the date of birth is stated to be xx-xx-1987.

4 Shri Gore, learned Advocate appearing on behalf of Respondent No.6, submits that some pages of the voters list published for the Aurangabad Municipal Corporation Elections, 2010 are not placed on record. The husband of the Petitioner is Abdul Razzak Abdul Rehman, who is shown at Sr.No.5947 in the same voters list of Ward No.27, Shatabdi Nagar. His house number is 2/12/573 which tallies with the name of the Petitioner at Sr.No.3333 where her house number is also shown as 2/12/573. Shri Gore, therefore, submits that the Petitioner is trying to change her identity itself only to make out a case that she does not reside in Shatabdi Nagar, but resides at Kannad.

5 Considering the above, I find that there are lot many discrepancies in the very name and identity of the Petitioner, as much as in the name and identity of her husband.

6 Before issuance of notice, the Petitioner is directed to file an affidavit along with her recent photograph and her marriage certificate. She shall state in the affidavit her marital name, her husband's name, details of her residence, house

number and shall also file the electricity bills of her residence for the last six months. She shall also file a similar affidavit of her husband declaring his identity and his marriage with the Petitioner. Since it is a presumption that the husband and wife stay together, the electricity bills for the last six months and the property tax bills and the payment receipts, shall also be placed on record along with the affidavits.

7 *It is made clear that until the above directions are complied with, notice will not be issued to the Respondents and there shall be no interim relief to the Petitioner.*

8 *Stand over to 15.02.2017 in the supplementary board.”*

2. On 15/02/2017, since the affidavits were not filed, I had passed further orders as under :-

“1 *Despite the order dated 31.01.2017 passed in this petition, the Petitioner has not complied with the said order and seeks further time.*

2 *Since it emerges from the record that the Petitioner as well as her husband are attempting to conceal their identity and since there is a serious doubt with regard to the credibility of their names, age and place of residence, this Court had directed the Petitioner as well as her husband to file the affidavits and place certain documents on record on the basis of*

which their identity could be ascertained.

3 *As such, stand over to 23.02.2017 as a last chance to the Petitioner to comply with the order dated 31.01.2017. This matter shall appear under the caption of passing orders.*

4 *If this order and the order dated 31.01.2017 is not complied with, this Writ Petition would stand dismissed on account of serious doubt about the identity of the Petitioner."*

3. Pursuant to the above, the petitioner has filed an affidavit stating therein that after her marriage on 24/03/2008 with Mr.Abdul Razzaque Pathan, she started residing in her marital home at Hattesingpura, Naherunagar, Katkat Gate, Aurangabad. As her husband had undertaken employment with Vodafone Cellular Service and was posted at various places in Nasik Region, the petitioner started residing at her parental home at village Rithi, Tal.Kannad. It is frankly submitted that after marriage, her address has been changed and having moved to Aurangabad, her name appears in the Municipal Corporation Electoral list. Documents to indicate the residence of the petitioner at Aurangabad have been placed on record.

4. The husband of the petitioner has also filed an affidavit

reiterating the contents set out in the affidavit of the petitioner. Copy of the Aadhar Card of the petitioner as well as her husband have also been placed on record.

5. There is no dispute that respondent No.4 had published an advertisement inviting applications for appointments of “Anganwadi Sevika” at Rithi, Tal.Kannad and in the interviews dated 25/02/2013, the petitioner stood first in the merit list. The petitioner was apparently a resident of Aurangabad and it is admitted that since her husband was away performing his service duties at Nasik that she had moved to her parents home for a temporary phase. These aspects clearly indicate that the petitioner has made an attempt to mislead the State Authorities for acquiring employment.

6. In the above circumstances, I was inclined to direct the State to initiate criminal proceedings against the petitioner for having indulged in a systematic attempt to acquire employment by misleading the Authorities. However Mr.Imale, learned Advocate for the petitioner prays that since the petitioner and her husband have filed a truthful affidavit and have narrated the facts, a lenient view may be taken. He further submits that the petitioner and her husband would not indulge in any such action in future.

7. In the light of the above, this petition is dismissed. Considering the request made by Mr.Imale, I am not issuing directions for initiating criminal action against the petitioner and her husband.

(RAVINDRA V. GHUGE, J.)