

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11910 OF 2017

NAMDEO SARJERAO KAKDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Shri Bhapkar S.L.
AGP for Respondents - State authorities : Shri Tambe S.K.
Advocate for Respondent - SEC : Shri Shelke S.T.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: September 27, 2017

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PER COURT :-

1. The petitioner is aggrieved by the order dated 25.9.2017, by which, the Returning Officer has invalidated the nomination form of the petitioner for contesting the Village Panchayat elections.

2. Learned counsel for the petitioner has argued at length. He submits that though the scrutiny of nomination forms is over on 25.9.2017 and the last date for withdrawal of forms is also over at 3.00 pm today, he contends at 8.05 p.m., that the minor defects in his nomination form be condoned and directions be issued to the Returning Officer to accept the nomination form.

3. Learned counsel appearing for the State Election Commission and Returning Officer / Tahsildar and the learned AGP appearing for the State and its authorities, submit that the nomination papers include different forms of undertakings. Signatures and/or thumb impressions have to be affixed on such papers. The petitioner has forgotten to put his signature / thumb impression on a vital document which is in the nature of an undertaking No.1 in Part II of the nomination papers. Even during the scrutiny of nomination papers, keeping in view Rule 11 of the Village Panchayat Elections Rules, 1959, he could have requested the Returning Officer to allow him to sign the said document. Same has not been done.

4. Learned Advocate for the petitioner submits that the petitioner was never informed about the scrutiny activity and, therefore, he could not cure the abovesaid curable defects, as it was not pointed out to him by the Returning Officer.

5. I do not find that this Court could exercise its jurisdiction in a matter of this nature and permit the petitioner to sign on the said undertaking / declaration while hearing this petition. The lacuna that remains to be cured and which could have been considered on 25.9.2017 during the scrutiny of the nomination

papers, cannot be permitted to be done away with while hearing this petition.

6. The view taken by the learned Division Bench of this Court in the matter of Anant Janardhan Patil Vs. State of Maharashtra [2002 (2) Mh.L.J. 238], would, therefore, be of no assistance to the petitioner.

7. In the light of the above, this petition does not deserve consideration and is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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