

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

WRIT PETITION NO. 11913 OF 2017

HARISHCHANDRA BALKRUSHNA BHAGAT
VERSUS
THE STATE ELECTION COMMISSION THROUGH TAHSILDAR AND
OTHERS

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Advocate for the Petitioner : Shri Dambe Santosh S.
AGP for Respondents / State : Shri S.N.Kendre.
Advocate for Respondent / Election Commission : Shri S.T.Shelke.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 28th September, 2017

Per Court:

1 The Petitioner is aggrieved by the validation of the nomination form of Respondent No.3 by the impugned order dated 25.09.2017.

2 The learned Advocate for the Petitioner has strenuously submitted that the law mandates that every person contesting the election of a Gram Panchayat has to tender a copy of the certificate issued by the Gram Sevak of that village and the resolution passed by the members of that Village Panchayat, indicating that the candidate desirous of contesting the elections has a washroom (toilet block) of his own and which he and his family members are using. If he does not have the toilet block, the said

certificate/ resolution must indicates that he is using the public toilet block.

3 This Court, in the matter of Nimba Dashrath Koli vs. State of Maharashtra and others, 2015 (3) Mh.L.J. 598 and in the judgment delivered on 20.09.2016 in the matter of Savita Sonkamble vs. State of Maharashtra, Writ Petition Nos.9704/2016 and 9705/2016, has concluded that these two documents are mandatory and should be tendered along with the nomination papers.

4 The learned Advocate for the Petitioner points out that Respondent No.3 had produced a certificate from the Village Development Officer dated 20.09.2017 in which it is mentioned that House No.975 of Respondent No.3 has a toilet block and he is using the same. The said house is within the limits of Gram Panchayat, Morewadi, Taluka Ambajogai, District Beed. The grievance is that Respondent No.3 resides at village Kodari, Taluka Ambajogai and not Morewadi.

5 It is then canvassed that the resolution passed on 17.09.2017 by the Gram Panchayat, Kodari mentions that Respondent No.3 does not have a toilet block.

6 I find that disputed questions have been raised in this petition wherein, a thorough investigation will have to be carried out. Such exercise ought not be carried out by this Court in writ jurisdiction. The Petitioner has a statutory and efficacious remedy under Section 14(1)(j-5)

of the Maharashtra Village Panchayats Act by which he can seek disqualification of Respondent No.3 on the grounds set out in the petition, in the event he is so elected.

7 In the light of the above, this Writ Petition is, therefore, disposed of with liberty as above being available to the Petitioner.

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(RAVINDRA V. GHUGE, J.)