IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11876 OF 2017
USHABAI SHIVCHARANDAS BAIRAGI
VERSUS
THE STATE ELECTION COMMISSION LATUR AND ANOTHER

WITH
WRIT PETITION NO. 11877 OF 2017
SHAIKH RASHID UMRAO
VERSUS
THE STATE ELECTION COMMISSION LATUR AND ANOTHER

WITH
WRIT PETITION NO. 11879 OF 2017
SHAIKH NASEER HASAN
VERSUS
THE STATE ELECTION COMMISSION LATUR AND ANOTHER

WITH
WRIT PETITION NO. 11882 OF 2017
DAIVSHALA GAUTAM JOGDAND
VERSUS
THE STATE ELECTION COMMISSION LATUR AND ANOTHER

WITH
WRIT PETITION NO. 11883 OF 2017
SHAIKH RIHANABI PASHU
VERSUS
THE STATE ELECTION COMMISSION LATUR AND ANOTHER
...
Advocate for Petitioner : Smt. Sontakke P.G.
AGP for Respondents - State authorities : Shri Bhagat N.T.
Advocate for Respondent - SEC : Shri Shelke S.T.
...

AND
WRIT PETITION NO. 11936 OF 2017
KALPANA SIDHESHWAR TUGAVE
VERSUS
THE STATE ELECTION COMMISSION LATUR AND ANOTHER
...

Advocate for Petitioner : Shri Swami Sandeep C.

AGP for Respondents - State authorities : Shri Bhagat N.T.
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. In all these Writ Petitions, the identically placed Writ Petitioners are aggrieved by the invalidation of their nomination papers. Though the petitioners, after a lengthy hearing in this matter desire to withdraw these petitions, so as to prefer an Election Petition or any other proceeding ,as is permissible in law, for the causes of action raised in these petitions, I deem it appropriate to record a statement made by Shri R.K.Karad, Naib Tahsildar, Renapur, District Latur, who is present in the Court.

2. In all these petitions, the print out of the nomination forms indicate the following times, evidencing the time at which these forms were filled in on-line, though on-line submission facility was not available in these elections:-

Petition No.	**Date**	**Time/Hrs**
WRIT PETITION NO. 11876 OF 2017	22.9.2017	16.30.54
WRIT PETITION NO. 11877 OF 2017	22.9.2017	16.25.15
WRIT PETITION NO. 11879 OF 2017	22,9,2017	16.42.00
WRIT PETITION NO. 11882 OF 2017	22.9.2017	15.30.00
WRIT PETITION NO. 11883 OF 2017	22.9.2017	15.55.35
WRIT PETITION NO. 11936 OF 2017	22.9.2017	15.02.13

3. It is undisputed that as per the Election programme, the nomination forms along with necessary documents as prescribed, were to be tendered in between 15.9.2017 till 22.9.2017 during 11.00 Hrs. to 16.30 Hrs. excluding the public holidays in between these days.

4. It appears that the nomination forms along with statutory declaration forms were available on-line. These forms had to be filled in by the concerned candidates. It needs mention, in the light of the submission of the learned counsel for the Election Commission and the Returning Officer that though these forms and documents were available on-line, the system did not provide for submission and acceptance of the forms on-line. Form AA under Rule 7(2), applicable to the filling up of the nomination forms indicates at Clause (3) that the desirous candidate is to fill in the nomination form available on-line on the website mentioned in the said form, pertaining to the Panchayat elections of the State of Maharashtra. The website address is mentioned at Clause 10. Rule (3), therefore, mandates that after these forms and undertakings are filled in on screen, the desirous candidate has to take a print out of all these forms, sign on each of these forms and the declaration and submit the

entire bunch of documents, as per Clause (4), to the Returning Officer, within the time prescribed.

5. In the first four matters out of the six, mentioned in the foregoing paragraphs, it is apparent that these candidates have filled in the forms on screen before 16.30.00 Hrs. on the last date on 22.9.2017. Contention of these petitioners is that the prints of these forms were taken, they were duly signed and attempted to be tendered to the Returning Officer, who made them wait and did not accept the said forms till closing hours 16.30.00. Thereafter, he expressed his inability to accept such forms.

6. Learned counsel for the Election Commission and the Returning Officer submits that a video recording of each day was conducted and the said Videography would indicate that these candidates had reached the Tahsil office at Renapur after 16.30.00 Hrs. He has made this statement on specific instructions from Shri R.K.Karad, Naib Tahsildar, Renapur. He further submits, on instructions, that this Videography is preserved for a period of five years and is not destroyed prior to the expiry of the said period.

7. Shri Shelke points out from the report received from Shri

Pradip Gaud, PSI, Renapur Police Station, addressed to the Tahsildar and Executive Magistrate, Renapur dated 26.9.2017, that those candidates who had reached the Tahsil office after 16.30.00 Hrs. including some of the candidates from Inderthana, they were disallowed from entering the Tahsil office as the time for submissions was over.

8. It appears from the time mentioned on the nomination forms of the last two petitioners mentioned above, namely Ushabai and Sk. Nasir Hussain that they have filed in the forms just after 16.30.00 Hrs. on 22.9.2017 and had taken a print out. Obviously, these two candidates could not reach the Tahsil office before closing hours. Consequently, the grounds on which they have filed these petitions cannot be considered and hence, their Writ Petition Nos. 11876 and 11879 of 2017, are disposed of as withdrawn, on instructions.

9. In so far as the first four petitions are concerned, as noted above, the times appearing on the forms indicate that the print out was taken before closing hours. As such, though these petitions are disposed off as withdrawn, on instructions, the petitioners would be at liberty to seek a copy of the Videography on payment of charges and on making an appropriate application

to the concerned Returning Officer / Tahsildar of Taluka Renapur, after the elections are over and the concerned authorities would be obliged to supply a legible DVD containing the said recordings, so as to enable these petitioners to take recourse to the remedy of filing an Election Petition, if so advised.

10. In so far as Writ Petition Nos. 11876 and 11879 of 2017 are concerned, they would also be at liberty to resort to a remedy as may be permissible in law, if so advised.

11. In the peculiar facts as recorded above, I deem it appropriate to note that the Election Commission should recommend to the State Government, the introduction of the facility of on-line submission of forms and a longer time to submit the hard copies of such forms and documents, keeping in view the endeavour of the State towards achieving complete digitalization.

12. All these six petitions are, therefore, disposed off as withdrawn.

(RAVINDRA V. GHUGE, J.)

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