

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11915 OF 2017

AASHABAI SUNDAR PAWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Shri Kothar P.P. h/f Shri Bora S.S.
AGP for Respondents - State authorities : Shri Bhagat N.T.
Advocate for Respondent - SEC : Shri Bharaswadkar M.B.

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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 rejection of her nomination form for contesting the Village Gram Panchayat elections, on the ground that the 'on screen form' before taking a print out, indicates Ward No.3 and Seat No. B and after taking the print out as per the instructions under Rule 7, Seat No.B is erased and is replaced by Seat No.C, which is signed at each place of such corrections.

2. Contention of the learned Advocate for the Returning Officer is that this correction should not have been made.

3. I have considered the submissions of the learned Advocate at length.

4. The procedure now being followed in the light of Rule 7 and the ten instructions thereunder is that every candidate will file the nomination form and all undertaking forms available on screen on the website of the State of Maharashtra. Clause 10 mentions the website. Clause 3 allows the candidate to fill in the form on screen in Marathi or English to be followed by taking a print out of all the documents filled on screen. Each of the documents then have to be signed by the candidate, so as to render them in original form and submit these documents to the Returning Officer within the time prescribed. There is no provision, according to the State Election Commission and the Returning Officer, to submit the forms on-line. Each candidate has to submit the hard copy of the nomination forms and papers annexed thereto.

5. In the instant case, after the petitioner took out a print out of the form, she realized that she had typed the Ward No.3 correctly and the Seat No. B incorrectly. She, therefore, erased "B" and as she was contesting from the General Category for Women for Seat "C", she mentioned "C" and signed on each place on all papers before tendering them to the Returning Officer.

6. After scrutiny, the Returning Officer has invalidated the form as there is a correction.

7. In my view, the case of the petitioner is squarely covered by Rule 11 of the 1959 Rules and 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], wherein, this Court has laid down the law that the scrutiny of the nomination papers under Rule 11 is to ensure that minor mistakes can be rectified and the nomination form can be invalidated if a substantial defect is noticed.

8. Considering the law laid down in the case of Anant (supra) and Rule 11(2A), there was no defect in the nomination form of the petitioner. In fact, no correction was required even before the Returning Officer during the scrutiny exercise.

9. This petition is, therefore, allowed. The impugned order dated 25.9.2017 is quashed and set aside and the nomination form of the petitioner is validated.

10. Since the Returning Officer is present in the Court and

this order is dictated in the open Court, he shall take note of the same. Learned counsel for the State and Election Commission submits that he would accordingly brief the Returning Officer. The name of the petitioner shall, therefore, be included in the list of valid candidates for the ensuing elections.

(RAVINDRA V. GHUGE, J.)

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