

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11900 OF 2017
MOHAN APPARAO MADBONE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
WRIT PETITION NO. 11901 OF 2017
RANJANA RAJENDRA GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
WRIT PETITION NO. 11906 OF 2017
ARCHANABAI PANDURANG BHALEKARI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Shri Patil N.P. Jamalpurkar
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 petitions, the identically placed petitioners, who are contesting the Village Panchayat Elections, have tendered their nomination forms within the prescribed time, as per the Election Programme. The scrutiny of the nomination papers was posted on 25.9.2017 from 1100 Hrs. until the scrutiny of all nominations forms by the Returning Officer was to be completed.

2. The nomination forms of these three petitioners have been rejected for the reason that though they have tendered a photostat copy of the Caste Certificate, as well as the copy of the proof that their caste claims are pending validation before the competent Caste Scrutiny Committee, the certified copy of the Caste Certificate was not appended to the nomination form. On the day of scrutiny, as the photostat copy of the Caste Certificate was on record, these petitioners have submitted the Certified Copy of the Caste Certificate in the presence of the Returning Officer. The ground for rejection is that certified copy was not annexed to the nomination form.

3. Shri Shelke, learned Advocate for the Election Commission and Returning Officer has drawn my attention to Section 10(1A), proviso thereunder and the two exceptions carved out thereunder for supporting his contention that Section 10(1A) requires the Caste Certificate to be tendered along with the nomination papers and a true copy of the application preferred by the candidate to the Scrutiny Committee for issuance of the Validity Certificate or any other proof of having made such an application to the Scrutiny Committee. He vehemently submits that the language used in Section 10(1A)

and its proviso mandates that the proof of submission of claim for validity must accompany the nomination papers.

4. Rule 11 of the Bombay Village Panchayat Elections Rules, 1959 indicates that at the time and place appointed for the scrutiny of nominations, the intending candidates or other persons, duly authorized, shall be allowed to examine the nomination papers. The Returning Officer shall examine such papers and decide all objections made before him or on his own motion and after a summary enquiry would consider whether a candidate has failed to comply with any of the provisions required by the Rules. Rule 11(2A) enables the Returning Officer to reject a nomination paper only on the ground of any such defect, which is of a substantial character.

5. In the matter of Anant Janardhan Patil Vs. State of Maharashtra [2002 (2) Mh.L.J. 238], this Court has concluded that a defect in the Caste Certificate was not a substantial defect, so as to reject the nomination form. In the instant case, on the date fixed for scrutiny of the nomination papers and to find out whether there is any defect that is curable and not of a substantial nature, these petitioners have tendered the proof of having submitted their caste claims for validation. Had no such

proof been tendered, it would have tantamounted to a defect of a substantial nature in the light of Clause (i) below the proviso to Section 10(1A) of the Act.

6. Considering the above and the law laid down by this Court with regard to the purpose of the scrutiny under Rule 11, the defect in these three petitions appear to be minor. There is no dispute that the copy of the Caste Certificate is a part of the nomination papers and the certified copy is submitted on the day of the scrutiny, in the presence of the Returning Officer.

7. Considering the above, these three petitions are allowed. The impugned order of the Returning Officer dated 25.9.2017 is set aside and the nomination papers of these petitioners would stand accepted.

8. The learned AGP shall communicate this order to the Returning Officer, Tahsil, Nilanga, for the elections of Gram Panchayat Savangi (J) forthwith and include the names of these three petitioners, i.e. Mohan Apparao Madbone, Ranjana Rajendra Gaikwad and Archanabai Pandurang Bhalekari in the list of contesting candidates.

9. Parties to act on this order, since it is dictated in the open Court.

(RAVINDRA V. GHUGE, J.)

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