

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

WRIT PETITION NO. 11980 OF 2017

**RAMA SAKLADI GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**WITH
WRIT PETITION NO. 11979 OF 2017**

**NANDABAI NAGORAO SONAWANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for the Petitioners : Shri Deshmukh Arvind.

AGP for Respondents/ State : Shri S.K.Tambe.

Advocate for Respondents / Election Commission : Shri M.B.Bharaswadkar

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 28th September, 2017

Per Court:

1 Not on Board. Mentioned. Taken on the Production Board.

2 In the first Writ Petition No.11980/2017, the Petitioner is aggrieved by the rejection of his nomination form, which is for the reason that in the online form, it was mentioned that he desires to contest the election from Open Male Category and the amount of Rs.100/- for Open Category was deposited, when it should have been Rs.500/-.

3 The grievance of the Petitioner is that though he had prepared the nomination form on screen, which is at page 14 of the petition paper book, the same was not submitted. The second on screen form was prepared and after taking a printout and affixing a thumb impression as required by the instructions issued under Rule 7 of the Bombay Village Panchayats Election Rules, 1959, the same was submitted to the Returning Officer. Inadvertently, the form, which was submitted, mentioned the category "Open" from which the Petitioner desires to contest the elections. In fact, he desires to contest the election from the reserved category as he belongs to a reserved category.

4 It is submitted that the Returning Officer should have allowed the Petitioner to make necessary corrections in the form and also deposit Rs.400/-, which was the deficit amount considering his desire to contest from the reserved category. It is further submitted that the said defect is of a minor nature and hence, the Returning Officer should have permitted the correction.

5 The learned Advocate for the State Election Commission and the Returning Officer, submits that now it is practically one day post the last date of the withdrawal of nominations, which was on 27.09.2017. The Election Commission is in the process of preparing the ballot papers keeping in view the list of validly nominated candidates.

6 I find that the first form prepared by the Petitioner and which

was not tendered to the Returning Officer correctly mentioned the reserved category from which he desires to contest the elections. The form, which contained defects, was eventually submitted in which the Petitioner has mentioned that he desires to contest from General Category and accordingly, paid the deposit amount of Rs.100/-. It is contended that the Petitioner is an illiterate person and cannot even read or write. He affixes his thumb impression as he cannot sign. Because of the mistakes committed in the form, he has lost his opportunity to contest the elections.

7 I find that though the defects mentioned could have been cured, the Petitioner should have made an effort during the scrutiny of nomination. At several places, he has mentioned that he desires to contest from the Open Category.

8 The learned Advocate for the Election Commission submits that numerous corrections in the form are not permissible as it would lead to complications since some corrections or interpolations would be done in the forms and that would eventually affect the fate of the nominations. Even in the undertakings and affidavits that are statutorily required to be filed along with the nomination form, the Petitioner has specifically mentioned that he is contesting the elections from the General Category.

9 Considering the above, I do not deem it proper to exercise my jurisdiction in this matter. This Writ Petition is, therefore, disposed of.

10 In the second Writ Petition No.11979/2017, the Petitioner has

committed similar mistakes in the nomination form which was tendered to the Returning Officer.

11 For the reasons set out above while disposing of the first petition, the second Writ Petition also does not deserve to be entertained and is disposed of.

kps

(RAVINDRA V. GHUGE, J.)