

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12298 OF 2017

LATA RAJENDRA GHANTE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Shri Kulkarni K.K.
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: October 06, 2017

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PER COURT :-

1. The petitioner is aggrieved by the order dated 3.10.2017 passed by the Returning Officer, accepting the nomination form of respondent No.5 thereby paving her way for contesting the elections to the post of Sarpanch of village Keshegaon, Taluka Tuljapur, District Osmanabad. The nomination form of the petitioner has also been validated.

2. Respondent No.5 was working as a Kotwal of village Keshegaon. On 26.9.2017, she has tendered her resignation as a Kotwal. She was on leave without wages from 25.9.2017. On 28.9.2017, she was directed by the Tahsildar, Tuljapur to deposit one month's notice pay for acceptance of the resignation. On

3.10.2017, her resignation was accepted and she was relieved from employment. Objection of the petitioner is that on the date she tendered her nomination paper, which is 29.9.2017, she was in employment and as such, could not have contested the elections.

3. Reliance has been placed on the judgment of this Court in the matter of Nayna Dnyanoba Pawar Vs. Vimal Nandkishor Mundada [2008 (3) Mh.L.J.156]. The contention is that the nomination paper of the said petitioner Nayna was rejected. She challenged the same before this Court. This Court did not allow her to contest the elections and concluded that the resignation becomes effective in the case of the Government employee from the date of acceptance.

4. The facts of the Nayna case (supra) were in relation to the Assembly Elections of the State of Maharashtra. In the instant case, the election is with regard to the village Gram Panchayat and Section 14(1)(f) would be attracted, which reads as under:-

" 14. Disqualification.

(1) No person shall be a member of a Panchayat continue as such, who -

(f) holds any salaried office or place of profit in

the gift or disposal of the Panchayat while holding such office or place"

5. The phraseology set out in Clause (f) under Section 14(1) indicates that no person shall be the member of the Panchayat or continue as such, if he holds the salaried office or place of profit in the gift or disposal of the Panchayat while holding such office or place.

6. The scrutiny of the nomination papers took place on 3.10.2017. The nomination form of respondent No.5 was validated by the Returning Officer, who is the Tahsildar of Taluka Tuljapur. He had accepted the resignation of respondent No.5 on the same date 3.10.2017 and as such, prima facie, on the date of the acceptance of the nomination, respondent No.5 was not in employment with anyone.

7. The disputed questions raised by the petitioner are that (1) how did the Tahsildar, Tuljapur accept the resignation letter of respondent No.5 on 3.10.2017, when he was discharging his functions as a Returning Officer and (2) whether the candidate is not to be in any employment and should not hold any office of profit on the date of filing of the nomination papers.

8. If Section 14(1)(f) is read, it prohibits a person from being a member of the Panchayat or continue as such, while holding a salaried office. Respondent No.5 is yet to face the elections, scheduled on 16.10.2017. On the date she has resigned and on the date her resignation was accepted, she was admittedly, not a member of the Gram Panchayat.

9. Considering the above and taking into account the disputed issues raised by the petitioner, I do not find that this Court could go into these disputed aspects and cause an interference in the acceptance of the nomination papers of respondent No.5.

10. Considering the above, this petition being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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