

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14420 OF 2017

RAJABHAU DAMODHAR NAVGARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Gangakhedkar Shailendra S

AGP for respondent No.1: Mr. N.T. Bhagat

Advocate for Respondents 2 and 3 : Mr. M.B. Bharaswadkar

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CORAM : V. K. JADHAV, J.
DATED : 14th DECEMBER, 2017

PER COURT:-

1. Heard.
2. By this writ petition, the petitioner has challenged the order dated 12.12.2017 passed by respondent No.2 Returning Officer thereby rejecting the nominations of the petitioner on the ground that there are variances in the name of the petitioner as per the final voters list and as per the documents appended alongwith the nomination papers. The petitioner has submitted two nomination papers, bearing Sr. No. 38424 and 38882.
3. Learned counsel for the petitioner submits that the petitioner is contesting candidate for the post of Sarpanch which is reserved for general category (Open) in the Gram Panchayat of village Hirki

Nimgaon, Tq. Majalgaon, District Beed. In the voters list, at Sr. No. 199, the name of the petitioner is mentioned as Navgare Rajabhau Kushirwata. Learned counsel submits that instead of father's name of the petitioner, name of mother of petitioner is mentioned in the voters list at Sr. No. 196. Learned counsel submits that though the petitioner has submitted nomination at Sr. No. 38424 mentioning the name of his father, however, anticipating further complications, due to mentioning of mother's name in the voters list alongwith name of the petitioner, submitted second nomination bearing Sr. No. 38882. However, the respondent Returning Officer has rejected both the nominations for the reason that there are variances in the names mentioned in the voters list and the documents appended alongwith the nomination papers. Learned counsel submits that the petitioner has explained in his affidavit about his name appearing in the PAN Card and Aaddhar card. The petitioner has also produced copy of his identity card issued by the Election Commission of India wherein the name of the mother of the petitioner is mentioned. Learned counsel submits that even then the respondent Returning Officer has erroneously rejected the nominations. Learned counsel submits that in terms of provision of sub-Rule (2-A) of Rule 11 of Bombay Village Panchayat Election Rules 1959, the Returning Officer shall not reject any nomination on the ground of any defect which is not of substantial character. In the instant case, nobody has raised any

objection and the defect, as stated by the Returning Officer while rejecting the nomination, is not of substantial character.

4. Learned counsel for respondent No.2 Returning Officer submits that there is variance in the name of the petitioner as per the final voters list and the documents appended with the nomination papers. Consequently, the Returning Officer has rightly rejected both the nominations.

5. On perusal of record submitted alongwith this writ petition, I find that the Returning Officer has rejected the nomination papers bearing Sr. No. 38882 erroneously and contrary to the provisions of law. The petitioner has submitted his nomination as per the name mentioned in the voters list at Sr. No. 199. The name of his mother also appears at Sr. No. 196. Further copy of identity card issued by the Election Commission, page 26 of the petition, is also produced before the Returning Officer and the same is in consonance with the name, as mentioned in the voters list. So far as the copy of PAN card and Aadhar card are concerned, the name of the petitioner's father is mentioned instead of his mother and the petitioner has also explained the same in his affidavit filed before the Returning Officer. It further appears that the respondent Returning Officer has rejected the nomination papers on technical ground and the defect, if any, as

concluded by the respondent Returning Officer is not of substantial character. Hence, the following order:-

O R D E R

- I. Writ petition is hereby partly allowed in terms of prayer clause "C" i.e. to the extent of nomination paper at Sr. No. 38882 only.
- II. Writ petition is disposed of. No costs.

(V. K. JADHAV, J.)

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