

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1693 OF 2017
WITH
WRIT PETITION NO. 1695 OF 2017

Manohar Sapate .. Petitioner
Vs.
The Returning Officer for the
Elections of the Municipal Corporation and anr. .. Respondents

Mr.G.S.Godbole i/b Ms.Shruti Tulpule, for the Petitioner.
Mr.D.G.Dhanure, for Respondent No.1.
Mr.S.S.Aaradhye, for Respondent No.2.

**CORAM : NARESH H. PATIL &
M.S.KARNIK, JJ.**

09th FEBRUARY, 2017

P.C. :

. The petitioner challenges order passed by the Returning Officer rejecting objection to acceptance of nomination paper. The learned Counsel appearing for the petitioner has referred to provisions of the Maharashtra Municipal Corporations Act (for short 'MMC Act') and to the impugned order. The learned Counsel submits that this Court

would deal with the issue regarding interpretation of Section 16 which provides remedy for filing election petition after the election results are declared. The learned Counsel further submits that the predecessors-in-title of respondents No.2- Mahesh Vishnupant Kothe (in WP/1693/2017) and Mr.Devendra Rajendra @Rajesh Kothe (in WP/ 1695/2017) had approached the State Government and obtained stay to the notice issued by the Municipal Corporation regarding alleged unauthorised construction of the structure which is now in possession of respondents No.2.

2. The Learned Counsel appearing for the respondent No.1 submits that the election process is already set in motion. Symbols are allotted yesterday i.e. on 08/02/2017. The petitioner is raising an academic issue at this stage. The petitioner has alternate efficacious remedy after election results are declared, therefore, no interference is warranted at this stage by Court. Learned Counsel appearing for respondent No.1 has placed his reliance on *Vinod Pandurang Bharsakade Vs.*

Returning Officer, Akot and anr, 2003(4) Mh.L.J. 359.

3. Perused the record placed before us and the order passed by the Returning Officer as also judgment in case of **Vinod Pandurang Bharsakade** (*supra*). We would refer to the provisions of Article 243- ZG of the Constitution of India and Section 16 of the MMC Act. The issue raised by the learned Counsel appearing for the petitioner need not be gone into at this stage in exercise of writ jurisdiction of this Court at this stage. The petitioner has alternate efficacious statutory remedy available which could be availed of after election results are declared. Keeping all the issues on merits open, we reject these Petitions.

(M.S.KARNIK, J.)

(NARESH H. PATIL, J.)