

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1987 OF 2017

Mr. Anil Chunilal Bahot	...	Petitioner
V/s.		
The State of Maharashtra & others	...	Respondents

Mr. B.K. Barve a/w. Santosh Wagh i/b. B.K. Barve & co. for the petitioner.

Ms. R.A. Salunkhe, AGP for the State.
Mr. S.B. Shetye for respondents 4 and 5.

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

14th February, 2017.

P.C.

The petitioner challenges the communication made by Returning Officer for Ward No.20,21 and 22, Nashik Municipal Corporation.

2. The petitioner states that he filed Nomination form on 3rd February, 2017 at 2.55 p.m. On the same day the petitioner submitted AB form of Indian National Congress, therefore, the Returning Officer treated the petitioner as an independent candidate.

3. The petitioner demanded a written communication on the said issue on 8th February, 2017. Consequent thereof, the impugned communication was made by the Returning Officer.

4. Learned Counsel appearing for petitioner submits that his nomination paper ought to have been accepted as a candidate supported by Indian National Congress. The petitioner was present in the Campus while necessary papers, documents, forms were submitted. According to learned Counsel it was erroneous on the part of the Returning Officer to treat petitioner as an independent candidate.

5. Learned Counsel appearing for Election Commission submits that in accordance with the instructions issued, the AB form was submitted at 3.10 p.m., therefore, Returning Officer had no authority to accept the form. The Returning Officer had accepted the petitioner as an independent candidate on 4th February, 2017. Petitioner seeks explanation on 8th February, 2017. Accordingly the Returning Officer had informed the petitioner. Learned Counsel submits that the petitioner has alternate efficacious remedy after election results are declared.

6. Perused the record placed before us. In the facts it would not be

appropriate to go into the issue as to whether the petitioner submitted AB form at 3.10 p.m. on 3rd February, 2017 or prior to that. The petitioner sought clarification from the Returning Officer which was tendered. The petitioner has alternate remedy under the provisions of Section 16 of the Maharashtra Municipal Corporation Act, 1949. We refer to provisions of Article 243ZG of the Constitution of India. Petitioner may resort to appropriate alternate remedy after the election results are declared.

7. Writ Petition stands disposed of.
8. We direct the State Election Commission to call for fact finding report in view of the allegations made by the petitioner herein.
9. Registry to forward copy of this order to State Election Commission.

(M.S. KARNIK, J.)

(NARESH H. PATIL, J.)