

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION NO.45 OF 2017
IN
WRIT PETITION NO.1768 OF 2017

Mr Sharad Kundalik Barne	... Petitioner
v/s	
The Returning Officer and another	... Respondents

Mr G.S. Godbole with Ms Shruti Tulpule i/b Ms Ulka Saranjame for
Petitioner.

Mr S. B. Shetye for Respondent No.2.

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

DATE : 15th FEBRUARY 2017

P.C. :-

1. Mr Godbole, learned counsel appearing for the
Petitioner, submits that online nomination form was uploaded. The
second and third nomination forms were produced before the
Returning Officer. The first nomination form was filed as a
candidate of Nationalist Congress Party, the second nomination form
was of an independent candidate. The concerned Clerk posted at

the relevant time, treated the second nomination form, which was of an independent candidate, to be the first in time and treated another nomination form as second in the order. Form AB was also submitted. The learned counsel submits that in such circumstance, the Returning Officer accepted the nomination form. The learned counsel, relying upon the judgment in the case of Anil Vidyarthi C. Ailani v/s State of Maharashtra and others, reported in 2016(2) Mah.L.J. 708 contended that Article 243-ZG of the Constitution of India does not impose a complete bar for exercise of power under Article 226 of the Constitution of India.

2. The learned counsel appearing for State Election Commission submits that the grounds raised in Review Petition were argued while the Writ Petition was heard. The learned counsel submits that the grounds raised herein require evidence and the issue could be gone into during trial.

3. We have perused the record, the judgment cited supra. In the facts and circumstances of the case, we are not inclined to

entertain the Review Petition. The grounds raised in the Review Petition do not commend to us to interfere.

4. Review Petition is accordingly rejected.

(M.S. KARNIK, J.)

(NARESH H. PATIL, J.)