

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

WRIT PETITION NO.3391 OF 2017

Ms. Jamila Tabassum Inayat Baig Mirza ..Petitioner
Vs.
The Returning Officer and Ors. ..Respondents

Mr. S. G. Kundle for the Petitioner.
Ms. Komal Solunke, AGP for Respondent Nos.2 and 6.
Mr. R.S. Apte, Senior Advocate i/b Mr. J. G. Reddy for Respondent No.3.
Mr. S. B. Shetye, AGP for Respondent No.4.
Mr. S. M. Oka i/b Mr. Sagar A. Joshi for Respondent No.5.

**CORAM: B. R. GAVAI AND
M.S. KARNIK, JJ.**

DATE: 23rd AUGUST 2017

P.C. :

. The Petitioner has come to this Court challenging the nomination papers of Respondent No.5 on the ground that the Returning Officer has improperly accepted her nomination papers.

2. An election petition is already preferred by the Petitioner wherein same grounds are raised which are sought to be raised in the present petition.

3. The learned counsel for the Petitioner submits that since the Respondent No.5 was not having a valid caste certificate, the nomination form is accepted by Respondent No.1 in a fraudulent manner.

4. The doctrine of election requires that when a party has elected to take recourse of one remedy then he cannot be permitted to take recourse of another remedy.

5. In any event, the Election Tribunal is competent to decide all the issues as provided in the statute. We do not find that this is a fit case to exercise jurisdiction under Article 226 of the Constitution to go into this disputed question of fact.

6. The Petition is rejected. The Petitioner is at liberty to take recourse of alternate remedy available to him under law.

(M.S. KARNIK, J.)

(B. R. GAVAI, J.)