

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10208 OF 2017

Dharmaraj Satnam Singh	..	Petitioner
vs.		
The State of Maharashtra & Ors.	..	Respondents

Mr. S. S. Patwardhan i/b. Mr. J. P. Kharge for Petitioner.
Ms Vaishali Nimbalkar - AGP for State.
Mr. Dinesh Tayade for Respondent Nos. 4 to 18.

CORAM : M. S. SONAK, J.
DATE: 18 SEPTEMBER 2017

P.C :

- 1] Not on board. Upon mentioning, taken on board.
- 2] The elections are scheduled to be held tomorrow i.e. on 19th September 2017.
- 3] The time limit for acceptance of nomination papers was been extended from 2 p.m. to 5.30 p.m. on 4th September 2017. The extension, at least *prima facie*, is on the basis of a communication dated 4th September 2017 addressed by the Assistant Returning Officer to the Charity Commissioner stating that the Officer who was actually entrusted with the duty of accepting nomination papers was required to attend the urgent matter before the High Court. The Assistant Returning Officer has stated that he was over burdened and on this basis requested for extension. The Charity

Commissioner, has issued a corrigendum granting the extension.

4] There are disputed questions which arise in this matter because, Mr. Patwardhan states that some nominations were accepted by authorities before 2 p.m. and further, officers were present who could have accepted the nomination by 2 p.m. There is also the issue as to whether there is power vested in the Charity Commissioner to alter the election schedule once the election process commenced.

5] Any interference at this stage is bound to have an impact on the election process. Assuming that there is some error on the part of the Charity Commissioner in issuing the corrigendum that by itself, is not a ground for this Court in deviation of settled principles relating to election law, interfering with the election process, at a stage when the elections are scheduled to be held just the next day. Instead, it will be appropriate if all the contentions of all the parties are left open to be adjudicated in appropriate proceedings, once the election conclude.

6] Mr. Tayade, learned counsel for respondent Nos. 4 to 18 submits that the respondents have just been served in the matter and they would like to respond to the petition and point out that there was no officer available to accept their nominations, since,

such officer was required to attend court proceedings. He submits that this is borne out from the document appended to the petition, in which, the officer has himself requested for extension of time to accept nominations, on account of his non-availability and over burden of work. As noted earlier, the elections are to take place tomorrow. At this stage, it will not be possible to examine all such disputed questions of fact. It is not as if the petitioner is remedy-less upon conclusion of the election process. If despite the impugned corrigendum, the petitioner succeed in the elections, there may be no cause to question the corrigendum. However, should the petitioner fail at the elections, liberty can always be granted to the petitioner to question the corrigendum, *inter alia* on the grounds set out in this very petition. The non entertainment of this petition at this stage, will therefore, not come in the way of the petitioner to question the corrigendum, should, such occasion arise in the future.

7] Accordingly, this petition is not entertained. However, it is made clear that in case, the petitioner's grievance survives the elections, and the petitioner choose to take out proceedings to question the result of the elections, then, the petitioner will be entitled to urge all the points which he has urged in the present petition, notwithstanding the fact that this petition is not entertained

by this Court.

8] With the aforesaid observations and liberty, this petition is not entertained. There shall be no order as to costs.

(M. S. SONAK, J.)

Chandka