

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1791 OF 2016

Dattatrey Santosh Borse ... Petitioner
Vs.
The Chief Officer,
Surgana Nagar Panchayat & Ors. ... Respondents
.....
Mr. Rameshwar N. Gite for the Petitioner.
Mr. B. V. Samant, AGP for Respondent Nos. 3, 4 & 6.
Mr. S. P. Dighe for Respondent No.7.

.....

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

DATE : AUGUST 07, 2017.

P.C. :

1. The petitioner challenges the nomination of respondent no.7 on the ground that he does not possess the qualification as is provided in Rule 4 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships (Qualification and Procedure For Appointment of Nominated Councillors) Rules, 2010 (hereinafter referred to as, 'the said Rules').
2. The petitioner, in the memo of this Petition, has stated that he is a resident of the municipal area with regard to which the Municipal Council has been constituted.
3. To our pertinent query as to whether the petitioner had submitted his nomination paper for the purpose of being

nominated as a Councillor, the learned counsel fairly concedes that the petitioner has not submitted his nomination paper. In that view of the matter, we are of the considered view that the petitioner has no *locus* to file the present Petition. No doubt, in view of the law laid down by the Hon'ble Apex Court in the case of ***S.P.Gupta vs President of India & Ors.***, reported in ***AIR 1982 SC 149***, the strict rule of *locus* stands diluted. However, a third party would be in a position to approach the Court only if a person, who, on account of various grounds pointed out in the above judgment, is not in a position to approach the Court directly.

4. The persons, who have contested the said election and who have not been declared as successful, can very well approach the doors of Court. In that view of the matter, we are not inclined to entertain the present Petition at the behest of the present petitioner. The Petition is therefore rejected.

(M. S. KARNIK, J.)

(B. R. GAVAI, J.)