

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 14062 OF 2017**

Mrs. Kirti Sanjay DeshmukhPetitioner
versus
Election Commission of Maharashtra and ors.Respondents

Mr. Akshay A. Deshmukh, advocate for the petitioner.
Mr. I. A. Shaikh i/b. Mr. S. B. Shetye, advocate for the respondent No.1.
Mrs. M. P. Thakur, AGP for the State.

**CORAM : RANJIT MORE &
SMT.ANUJA PRABHUDESSAI, JJ.**

DATE : 20th DECEMBER, 2017.

P. C. :

Heard learned counsel and learned AGP appearing for the respective parties.

2. By this petition, the petitioner is challenging the order dated 12th December, 2017, passed by the Returning Officer of Gram Panchayat – Kuran Budark, Taluka-Velhe, District-Pune. By the said order, the petitioner's objection to the nomination papers of the respondent No.5 came to be rejected. The petitioner, respondent No.5 and one Shivaji Balu Kadu are contesting elections for the post of Sarpanch of Village-Kuran Budark. The petitioner submitted that the persons contesting the elections for the post of Sarpanch of Village - Kuran Budark are required to file an affidavit disclosing pendency of crimes against them.

The contention of the petitioner is that though there is crime bearing FIR No.81 of 2014 registered against the respondent No.5 under Section 498-A, 324, 504, 506 and 342 of the Indian Penal Code 1860, information of the same has not been disclosed by him and therefore, he is not entitled to contest the elections to the post of Sarpanch of Village – Kuran Budark.

3. Perusal of the impugned order does show that the petitioner's said application is rejected by the Returning Officer relying upon the notification of the State Election Commission dated 15th March, 2004. Under the said notification, it has been directed that the Returning Officer can neither verify the authenticity of the information given in the affidavit by the contesting candidates, nor can he reject the nomination of the contesting candidates on that ground. The logic behind this is that the election process should not be stalled and the remedy of the person concerned is to challenge the election by way of dispute/election petition. The petitioner is always at liberty to challenge the election of the respondent No.5, in case, he is elected as Sarpanch.

4. In the light of the above, we are not inclined to entertain the petition and the same is, accordingly, dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

[RANJIT MORE, J.]