

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 386 OF 2017

Shri Ajay Sadanand Bagal .. Petitioner

Vs.

The Secretary,
The State Election Commission and ors. .. Respondents

Mr.V.P. Patil a/w Mr.Amit Potnis, for the Petitioner.

Mr.S.B. Shetye, for Respondents No.1.

Mr.A.I.Patel, Addl. G.P. for Respondent No.4 - State.

Ms.Pallavi Thakar, for Respondent No.3 - MCGM.

**CORAM : NARESH H. PATIL AND
M.S.KARNIK, JJ.**

07th FEBRUARY, 2017

P.C. :

. The petitioner challenges the order of rejection of his nomination paper. Learned Counsel appearing for the petitioner submits that the petitioner earlier had asked for a symbol of 'Lotus'. The party did not recommend the petitioner for getting the said symbol by submitting AB form. In accordance with the procedure established by the State Election Commission, in such situation, the petitioner's nomination ought to have been accepted as an independent candidate.

2. Learned Counsel appearing for the State Election Commission – Mr.Shetye, after taking instructions, fairly makes a statement that the Returning Officer ought to have taken into consideration the instructions and circular issued by the State Election Commission while dealing with this case.

3. We have perused the record placed before us. Prima facie we find that in the present facts, the Returning Officer could have accepted the nomination paper.

4. According to the election programme, today is the date fixed for withdrawal of the nomination. We are hearing this Petition at about 3.40 p.m. In the peculiar facts and circumstances of the case, we are not inclined to exercise our writ jurisdiction. However, the petitioner is at liberty to resort to appropriate statutory remedy after the election results are declared.

5. We direct the State Election Commission to call for explanation from the concerned Officer. The Registry to

forward copy of this order to the State Election Commission.

6. The Petition is accordingly rejected.

(M.S.KARNIK, J.)

(NARESH H. PATIL, J.)