

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 393 OF 2017

Satish Umesh Prabhu and anr. .. Petitioners

Vs.

State of Maharashtra and ors. .. Respondents

Ms.Priyanka Ghosh, for the Petitioners.

Mr.S.B.Shetye,for Respondent No.2 – State Election Commission.

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

08th FEBRUARY, 2017

P.C. :

. The petitioners's challenge is to the acceptance of nomination form of respondent No.5 from Ward No.106 by Election Returning Officer. It is the petitioners's case that despite objections raised by the petitioners providing clinching, solid, cogent evidence of unpaid dues of the Corporation, the same was overlooked by the respondent No. 4. It is also the case of the petitioners that respondent No.5 has filed false affidavit that no dues of the Corporation were pending. The petitioners have relied upon no dues certificate issued by the

Corporation in favour of respondent No. 5 and contends that the same were wrongly issued.

2. The petitioners therefore pray that the nomination form filed by respondent No.5 for contesting Mumbai Municipal Corporation election to be held on 21/02/2017 from Ward No. 106 be declared as invalid. The controversy involved in the present Petition, therefore, is whether no dues certificate issued by the Corporation in favour of respondent No.5 is correct or not. An affidavit has been filed by respondent No.5 that there are no dues payable to the Corporation by respondent No.5. It is not possible for us to decide this controversy in the present Petition as these are disputed questions of fact. Moreover, election programme is already declared and the election process is set in motion. In these circumstances, we are not inclined to exercise our writ jurisdiction.

3. The petitioners have alternate efficacious statutory remedy available after election results are declared. The

petitioners are at liberty to resort to such remedy.

4. With the above observations, the Petition is dismissed.

(M.S.KARNIK, J.)

(NARESH H. PATIL, J.)