

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4150/2015

(KANTABAI @ KALABAI MOTIRAM BARAIKAR. **VERSUS** RETURNING OFFICER, GRAM PANCHAYAT
ELECTION, JIRUTOLA, GONDIA & OTHERS)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.J. Mirza, counsel for the petitioner.
Ms T.H. Udeshi, A.G.P. for the R-2 to 3.

CORAM : SMT. VASANTI A NAIK, J.

DATE : JANUARY 30, 2017.

By this writ petition, the petitioner challenges the order of the returning officer, dated 13.07.2015 accepting the nomination form of the respondent no.4 for the election to the Gram Panchayat.

According to the petitioner, who desired to contest the Gram Panchayat elections but, whose nomination paper was rejected on valid grounds (and the said order is not challenged), the returning officer has wrongfully rejected the objection of the petitioner to the acceptance of the nomination form of the respondent no.4. It is the case of the petitioner that the respondent no.4 had fraudulently secured the caste certificate that she belongs to Katiya scheduled caste. It is stated that the returning officer wrongfully held that the caste certificate of the respondent no.4 appears to be correct. It is further stated that the caste certificate of the respondent no.4 was cancelled, during the pendency of the writ petition.

There is no reason for interference with the impugned order of the returning officer. The returning officer, after perusing the documents of the respondent no.4, found that the caste certificate tendered by the respondent no.4 appears to be correct. It is not for a returning officer to consider whether a caste certificate is issued in favour of any candidate fraudulently, as that issue needs to be decided by a competent court or authority. Though there is nothing wrong with the order of the returning officer, if the caste certificate of the respondent no.4 is invalidated subsequently, as stated on behalf of the petitioner, further steps may be taken in the matter and the returning officer may declare the seat vacant as per the provisions, and conduct the election to the post of a Member of the Gram Panchayat, as it is informed that the respondent no.4 was the only candidate, whose nomination was accepted and this Court had directed the returning officer not to declare the result of the election to the post of the Member, for which the respondent no.4 had contested.

With these observations and directions, the writ petition is disposed of with no order as to costs.

JUDGE

APTE