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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (C) No.3061/2017**

MONIKA CHHABRA

..... Petitioner

Through: Mr. Vikramjeet Banerjee,
Senior Advocate along with
Mr. Neeraj, Mr. Ajay Digpaul,
Mr. K.R. Anand, Mr. Rajesh
Mishra, Mr. Vijay Joshi,
Mr.Sushil Kumar Pandey &
Mr. Amit Tiwari, Advocates.

versus

STATE ELECTION COMMISSION & ORS.

.....

Respondents

Through: Mr. Sumeet Pushkarna,
Standing Counsel &
Mr.Siddhartha Nagpal,
Advocate for respondent No.1.
Mr. Akhil Kumar, RO, Ward
No.81-N, in person.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
08.04.2017

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The petitioner has preferred the present writ petition to assail the order dated 05.04.2017 passed by the Returning Officer whereby the Returning Officer has rejected the nomination papers of the petitioner on the ground of non-filing of affidavits in Form Nos. 21 and 22 within the

prescribed time limit which tantamount to a defect of a substantial nature.

The petitioner filed her nomination paper as an authorized candidate of Bhartiya Janta Party to contest the forthcoming election to the Delhi Municipal Corporation from Ward No. 81 (KISHANGANJ). The said form was filed by the petitioner on 05.04.2017 which was the last date for filing of the nominations. The form was filed at 5.39 p.m. when the closing time was 6.00 p.m. The nomination form was not accompanied with affidavits in Form Nos. 21 and 22. According to the petitioner, when this was pointed out, the petitioner hurriedly prepared the affidavits and got them duly attested and returned to the office of the Returning Officer for filing the same before the closing time of 6.00 p.m.

This petition was mentioned during the holidays and in view of the urgency explained, the same was taken up for consideration on 07.04.2017. In view of the aforesaid submissions advanced by the petitioner, the Court issued notice returnable for today. The order dated 07.04.2017 may be reproduced and the same reads as follows:

“C.M. No. 13378/2017 (for exemption)

Exemption allowed, subject to all just exceptions. Application stands disposed of.

W.P. (C) No.3061/2017

The matter has been listed before this court on the orders of Hon'ble the Chief Justice in view of the urgency explained. It is, accordingly, taken up for consideration.

The submission of learned senior counsel for the petitioner is that the reason for rejection of the petitioner's nomination in respect of Ward No.81, Kishan Ganj is that the petitioner failed to submit the affidavit in Form-21 and 22 by 6:00 p.m. on 03.04.2017, which was the last date and time for filing of nomination.

Learned senior counsel submits that the petitioner had submitted the nomination form in original at 5:39 p.m. on 03.04.2017. A check list was issued to the petitioner at 5:39 p.m., wherein the aforesaid deficiency was pointed out. The petitioner claims that immediately thereafter the affidavits were got duly attested and the petitioner had returned to the office of the Returning Officer before 6:00 p.m. However, on account of heavy rush, the petitioner was kept waiting in the queue and her turn came only at 11:04 p.m. At that stage, the aforesaid affidavits were not accepted by the Returning Officer and, consequently, the nomination has been rejected. The petitioner claims that she protested the fact that the affidavits tendered by her were not taken on record.

Learned senior counsel submits that a CCTV camera was installed in the office of the Returning Officer and a perusal of the footage would show that the petitioner had returned with the affidavits duly attested before 6:00 p.m.

Issue notice. Mr. Pushkarna accepts notice on behalf of respondent no.1. Let dasti notice issue to respondent nos.2 and 3 returnable on 08.04.2017. The matter shall be taken up at 12:30 p.m. in chamber on 08.04.2017.

Respondent nos.2 and 3 shall produce the record pertaining to the petitioner's nomination and shall also produce the CCTV footage and the videography, if any, made during the acceptance of nomination form on 03.04.2017.

No interim orders are being passed since it is pointed out that the last date for withdrawal of the nomination is fixed as 08.04.2017 and Mr. Pushkarna states that the withdrawal would be permitted till the stipulated time which would be sometime in the afternoon.

Order dasti under the signatures of the Court Master."

The Returning Officer is present with the video/ CCTV recording. Even before the same is viewed, learned senior counsel for the petitioner, on instructions, states that the petitioner had not returned with the attested/

notorised affidavits before 06:00 p.m., which was the last time fixed for receiving the nomination papers. That being the position, this petition does not require any further consideration.

Dismissed.

VIPIN SANGHI, J

APRIL 08, 2017

B.S. Rohella