

\$~5.

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

+ **W.P. (C) No.3064/2017**

MS SANJU BALA

..... Petitioner

Through: Mr. Kirti Uppal, Senior
Advocate along with
Mr.Neeraj, Mr. Sushil Kumar
Pandey, Mr. Vijay Joshi,
Mr.S.A. Rajpoot & Mr. Amit
Tiwari, Advocates.

versus

STATE ELECTION COMMISSION & ANR Respondents

Through: Mr. Sumeet Pushkarna,
Standing Counsel &
Mr.Siddhartha Nagpal,
Advocate for respondent No.1.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
08.04.2017

%

C.M. No.13384/2017

Exemption allowed, subject to all just exceptions.

W.P. (C) No.3064/2017 and C.M. No.13383/2017

The submission of learned senior counsel for the petitioner is that the candidature of the petitioner has been rejected on the ground that the

proposer of the petitioner, namely Smt. Shashi Prabha is shown as Elector in Part No.57, Serial No.30 of Assembly Constituency No.31 (Vikas Puri) and she is not an elector for Ward No.24-S (Bapraula), wherefrom the petitioner had filed her nomination. Mr. Uppal submits that there was an error in enrolling the proposer Smt. Shashi Prabha as an elector of Part No.57, Serial No.30 of Assembly Constituency No.31 (Vikas Puri). He submits that, in fact, Smt. Shashi Prabha should have been elector of Ward No.24-S Bapraula. In this regard, he submits that the proposer's daughter is enrolled as an elector in Ward No.24-S Bapraula and the proposer and her daughter Deepika share the same residential address. He places reliance on Rule 19(5) of the DMC Election of Councillors Rules, 2012.

In my view, that cannot be a ground to assail the impugned order. The Returning Officer was only required to check whether the proposer was enrolled as an elector of Constituency wherefrom the nomination has been filed. Reliance placed by Mr. Uppal on Rule 19(5) of the DMC 2012 Election of Councillors Rules, 2012, is misplaced. The said rule reads as follows:

“19(5) On the presentation of a nomination paper, the Returning Officer shall, satisfy himself that the names and electoral roll numbers of the candidates and his proposer(s) as entered in the nomination paper are the same as those entered in the electoral roll;

Provided that the Returning Officer shall permit any clerical or technical error in the nomination paper in regard to the said names or numbers to be corrected in order to bring them into conformity with the corresponding entries in the electoral rolls, and where necessary, direct that any clerical or printing error in the said entries shall be overlooked.”

A perusal of the aforesaid rule would show that the Returning Officer

is obliged to satisfy himself that the names and electoral roll numbers of the candidate and his proposer – as entered in the nomination paper, are the same as those entered in the electoral roll. In case there is any clerical or technical error in this respect, he may correct the same in order to bring them into conformity with the corresponding entries in the electoral rolls, and where necessary, direct that any clerical/ printing error in the same shall be overlooked. The aforesaid obligation cast on the Returning Officer cannot be read as an obligation on the Returning Officer to change the constituency / ward where the proposer elector is enrolled.

In view of the aforesaid, I do not find any merit in this petition.

Dismissed.

Dasti under signature of Court Master.

VIPIN SANGHI, J

APRIL 08, 2017

B.S. Rohella