

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6999 OF 2018

BALAJI VITHALRAO JADHAV
VERSUS
THE RETURNING OFFICER AND OTHERS

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Advocate for Petitioner : Shri Ghatge Mahesh V.
Advocate for Respondents 1 & 2 : Shri Ingole R.K.
Advocate for Respondent 3 : Smt. Deshmukh Charuta Sunil

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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 08, 2018

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PER COURT :-

1 I have heard the learned Advocates for the respective sides.

2 The issue is as regards the rejection of application Exhibit 9 by the impugned order dated 23.6.2018, by which, the trial Court dealing with Election Petition No.2 of 2017 has refused certain reliefs prayed in Exhibit 9.

3 I find that the petitioner - defeated candidate, had sought recounting of votes, discarding of 46 votes recorded in the new counting machines allegedly installed after the voting period and for voting and counting three postal ballots not considered by the Returning Officer.

4 Though the petitioner has strenuously criticized the impugned

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order, I find that Exhibit 9 cannot be considered as the issues are yet to be cast in the Election Petition.

5 The reasons assigned by the trial Court, while rejecting Exhibit 9, cannot be branded as being perverse or erroneous. The trial Court has rightly recorded that after the litigating sides lead evidence, the picture would be quite clear and unless the evidence is recorded, allowing Exhibit 9 would practically amount to granting reliefs to the petitioner, which he may not be entitled to as a final result of the election petition unless he makes out a clear case against the elected / returned candidate.

6 Considering the above:-

(A) This petition is dismissed.

(B) The trial Court shall ensure that the issues are cast in the first week of December, 2018.

(C) Since it is informed that, "No Written Statement" order has been passed against the returned candidate, who has still not filed the written statement, he may file an application for appropriate relief in this regard, before the trial Court, on/or

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before 28.10.2018.

(D) Thereafter, the litigating sides would be at liberty to render assistance to the trial Court by submitting draft issues on/or before 30.11.2018.

(E) The trial Court would decide the Election Petition No.2 of 2017, on/or before 31.12.2019.

(F) The parties shall cooperate the trial Court in disposal of the petition within stipulated time and shall refrain from seeking adjournments on frivolous and paltry grounds. The trial Court would be at liberty to reject such requests.

Ajay
Kishanrao
Losarwar

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signed by Ajay
Kishanrao
Losarwar
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(RAVINDRA V. GHUGE, J.)

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