

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12436 of 2018

Bairunath Balbhim More

Petitioner

Versus

The State of Maharashtra & ors.

Respondents

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Mr. R.V. Naiknavare, Advocate for the petitioner

Mr. V.H. Dighe, Advocate for the respondent Nos.2, 3 & 5

Mr. V.B. Jagtap, Advocate for the respondent No.4

Mr. A.N. Irpatgire, Advocate for the respondent No.6

Mr. U.M. Maske, Advocate for the respondent Nos.8, 9, 11, to 13, 22 to
26, 28 & 29

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Coram : N.M. Jamdar, J.

Date : 19 November 2018

Oral Order :

1 Heard learned counsel for the parties.

2 The petitioner has challenged the acceptance of nomination of respondent No.6 by the Returning Officer, and the order dated 29 October 2018.

3 It is the contention of the petitioner that respondent No.6, being a defaulter, is not entitled to contest the election as he stands disqualified.

4 The learned counsel for the petitioner also relies on a decision in the matter of ***Dalsing s/o Shamsing Rajput vs. State of Maharashtra and others*** reported in ***2006(3) Mh.L.J.***, to contend that if a candidate is on the face of it not qualified, then the Writ Court has all the powers to restrain such candidate from contesting the election. Reply affidavit is filed on behalf of the State Co-operative Election Authority respondent No.3. It is stated that the authority scrutinized the documents tendered by respondent No.3 and have found that the respondent No.6 is qualified.

5 Therefore, prima facie, there is a stand taken by the election authority based on the documents which they have annexed to the affidavit in reply. I have gone through the said documents. Considering the law that there should be minimum interference in election process when there is a remedy of election petition available, at this stage interference is not warranted. The petitioner has a remedy of challenging the election of the respondent No.6, if he so stands elected, by filing an

appropriate election petition. Keeping all contentions of the parties open, the writ petition is disposed of.

N.M. Jamdar, J.

agd