

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD***

REVIEW APPLICATION No. 238 of 2018

IN

WRIT PETITION No. 12928 of 2018

Ansari Ftima Noorul Amin

.... Petitioner

Versus

The State of Maharashtra and others

... Respondents

Mr. V.D. Hon, Senior Advocate, holding for Mr P.B. Pawar,
Advocate for petitioner

Mr. S.W. Munde, Asstt. Govt. Pleader for respondents No. 1 & 5

Mr. S.T. Shelke, Advocate for respondent No.2

Mr. A.S. Sawant, Advocate for respondent No.3

Mr. D.S. Bagul, Advocate for respondent No.4

Coram : N.M. Jamdar, J.

Date : 27 November 2018.

PER COURT:

1. Not on board. Taken on production board by way of praecipe. The review application was mentioned in the morning session with notice to the the original petitioner and the respondent/State and the

Election Commission.

2. By interim order passed yesterday I had permitted the writ petitioner to file the nomination because the impugned order annexed showed that the nomination form was rejected only on the ground that the petitioner had not signed above the word 'deponent' but below. Considering this lapse of being technical nature and not a defect of substantive nature, the petitioner was permitted to file the nomination form. Today, the review is filed on the ground that another order on the same day was passed by the Returning Officer stating that the original petitioner is underage, not having completed 21 years.

3. As regards the second order is concerned, it is strenuously urged by the learned Senior Advocate appearing for the original petitioner that there cannot be two orders and this ground was never communicated to the petitioner. It is contended that the petitioner was only informed that rejection was due to signature at a wrong place.

4. Apart from the position regarding two orders, the question is whether the petitioner could be permitted to file the nomination if the petitioner is otherwise not eligible being underage.

5. Though the original petitioner may contend that this ground was not communicated to the original petitioner, on facts, there does not appear to be any dispute. In the nomination form the petitioner at various places has given her age as 19 years and at some other places as 19 years and 10 months. This is declaration by the petitioner herself. Therefore, it is clear that the petitioner is under age.

6. Once this admitted fact is brought to the notice of this Court which is exercising the writ jurisdiction, the same cannot be ignored and entirely ineligible candidate cannot be permitted to contest the election under the writ of this Court.

7. In view of this position, the interim order passed yesterday in the petition permitting the petitioner to file the nomination will have to be vacated. Accordingly the interim order stands vacated.

8. Order be acted upon without waiting for a copy.

N.M. Jamdar, J.