

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11983 OF 2018

Shaikh Mohammed Rafique Mustafa
Hussain.

..Petitioner.

Versus

Sagun Vasant Naik and Others.

..Respondents.

Mr. V. A. Thorat, Senior Advocate with Mr. P. J Thorat I/b S. S. Sharma
for the Petitioner.

Mr. C. K. Bangoji for Respondent No. 1.

Mr. Santosh Parad for MCGM.

Coram : RANJIT MORE &
REVATI MOHITE DERE, JJ.

Date : **December 3, 2018.**

P. C. :

1. Mr. Thorat, learned senior counsel for the Petitioner at the outset seeks leave to delete the name of Respondent No.3 from the array of Respondents. Leave granted at the risk of Petitioner. Necessary amendment be carried out during the course of the day.

2. Heard Mr. Thorat, learned senior counsel for the Petitioner, Mr. Bangoji, learned counsel for Respondent No.1 and Mr. Parad, the learned counsel for the Respondent-Corporation. The petition is filed seeking directions to the Small Causes Court to expedite the hearing of election petition pending on its file, being Election Petition No.65 of 2017.

3. Respondent No.1 got elected as corporater to the Municipal Corporation for Greater Mumbai from the Other Backward Category. The Petitioner too had contested this election but was

defeated. The Petitioner had secured second highest votes.

4. The caste claim of Respondent No.1 was invalidated by the Caste Scrutiny Committee by its order dated 20.6.2018. This order has been confirmed by this Court and the Hon'ble Supreme Court. Thus, the order of the caste scrutiny committee has achieved finality.

5. The Petitioner contends that since she has secured the second highest votes, she is entitled to be declared as elected as per the provisions of section 33 of the Mumbai Municipal Corporation Act, 1888.

6. In the light of above, in our considered opinion the petition can conveniently be disposed of by directing the Small Causes Court at Bombay, Mumbai to decide Election Petition No. 65 of 2017 as expeditiously as possible and in any case on or before 28th February 2019. Ordered accordingly. Writ petition stands disposed of.

7. This order shall not be construed as an expression of any opinion on the merits of the matter and the said election petition shall be decided independently, on its own merits and strictly in accordance with law. The Petitioner and Respondent No. 1 shall co-operate with the Court below in the hearing and disposal of election petition.

[REVATI MOHITE DERE, J.]

[RANJIT MORE, J.]