

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 WRIT PETITION NO.6825 OF 2008

SOPAN BABURAO BUDHANR

... PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND ORS. ... RESPONDENTS

...

Mr. M. P. Kale, Advocate for Petitioner

Mr. A.B. Chate, AGP for Respondents-State

...

CORAM : V. K. JADHAV, J.

DATED : 12th DECEMBER, 2019

PER COURT :-

1. This writ petition is about disqualification of the petitioner as a Member of Gramsevak for having a third child after the cut off date.

2. Learned counsel for the petitioner submits that in terms of provisions of Section (8) of the Registration of Births and Deaths Act, 1969, the head of the house or any nearest relative has to inform about the birth of child and accordingly, the entry has to be taken in the birth register. Learned counsel submits that in the instant case, it has alleged that the third child of the petitioner born in the village itself and it is thus necessary that the said information should have been given by head of the family or some nearest relative. Learned counsel

submits that it is not clear as to who has given the information and on the basis of such information, the entry was taken in the birth register. Learned counsel submits that on the other hand, it has come in the contention raised by the objector that the Anganwadi Sevika has informed about the birth of third child of the petitioner and accordingly, the entry was taken in the birth register. Learned counsel submits that there is no further evidence about the birth of third child after the cut off date. This writ petition deserves to be allowed by quashing and setting aside the order passed by authorities below.

3. Learned AGP supports the order passed by authorities below. Learned AGP submits that the entry in the birth register was taken and the Anganwadi Sevika has independently recorded the birth of third child of the petitioner in the record maintained by the said Anganwadi Sevika. Learned AGP submits that there is no substance in this writ petition and the writ petition is liable to be dismissed.

4. On perusal of the impugned order, it appears that even the Additional Collector called the Gramsevak along with birth register and verified the entry of third child of the petitioner. It further appears that the Anganwadi Sevika has independently recorded the birth of third child of the

petitioner. So far as the birth of third child is concerned, the said third child born in the village. Accordingly, the information was given to the concerned Gramsevak. Thereafter, the entry was taken in the birth register. On 21.08.2006, there is also the certificate issued by Zilla Parishad, Primary School, Ghonsi (Kh.), Taluka Ghansawangi, District Jalna, wherein, it appears that the first two daughters are taking education in Primary School. The petitioner has taken specific defence before the authorities below that his wife was physically and mentally incompetent to give birth to third child and as such, there is no possibility that the third child born to the petitioner after the cut off date. In order to substantiate the same, the petitioner has not placed on record any documents. Furthermore, there is no whisper as to how the first two daughters born to the petitioner from his wife. It is not clear as to whether at the time of birth of those two daughters, the wife was mentally and physically fit to give birth to those daughters and subsequently, she become incompetent. Apart from this, in addition to that specific entry has been taken by the Anganwadi Sevika in the record about the third child born to the petitioner after cut off date. There are concurrent findings by the Additional Collector so also the Commissioner. I find no substance in this writ petition. Hence, I proceed to pass the following order:

ORDER

- (I) The writ petition is hereby dismissed.
- (II) Rule discharged.

(V. K. JADHAV, J.)

Sam..