

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION STAMP NO.31974 OF 2019
(Rohit s/o Rajendra Pawar Vs. The Election Commission of India and others)

Mr.P.R.Katneshwarkar h/f Mr.S.R.Andhale, Advocate for the petitioner.
Mr.A.M.Sharma, Advocate for respondent Nos. 1 and 2.
Mr.R.R.Karpe, Advocate for respondent No.7.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 07/10/2019

PER COURT :

1. The petitioner Rohit Rajendra is aggrieved by the impugned order dated 05/10/2019 by which his nomination form for contesting the election to the 227-Karjat-Jamkhed Legislative Assembly Constituency, has been rejected.

2. I have heard the learned Advocates for the petitioner, the Election Commission of India and the concerned Officers respondent Nos. 1 to 3 and on behalf of respondent No.17.

3. Considering the order that I intend to pass in view of the statement made by the petitioner, I am not required to advert to the

entire submissions of the litigating sides and more so when this order is being dictated at 7.20 PM.

4. Suffice it to say that the check list dated 04/10/2019 prepared by the Returning Officer/respondent No.3 Mrs. Archana Nashte, does not indicate any defect or shortcoming of a substantial nature in the nomination form of the petitioner. A minor error mentioned at Clause 2 of the check list, is said to have been cured and there is no dispute about the same. The controversy is with regard to an alleged notice issued by the said Returning Officer to the petitioner dated 04/10/2019 purportedly sent on WhatsApp and that the impugned order rejecting the nomination form of the petitioner begins with his name in the order and concludes by recording that the nomination form of Shri Yunus Dagadu Shaikh has been rejected. The nomination form of a different candidate altogether has been rejected and technically, there is no rejection order of the nomination form of the petitioner.

5. The learned Advocate for respondent No.17 submits that the impugned order is now corrected. The learned Advocate for the petitioner submits that his client has obtained the certified copy of the impugned order today morning and there is no correction and the

nomination form of a third party Shri Yunus Dagadu Shaikh has been rejected.

6. I am not entertaining this petition for the reason that there is a dispute raised as regards the petitioner having left clause 5(1) and 6(1), blank. That is a vital declaration about the petitioner having not been convicted by any Court, in any criminal matter.

7. I, however, *prima facie* find that the Returning Officer has not applied her mind to the nomination form of the petitioner while preparing the check list and while passing the impugned order.

8. In view of the above, this petition is disposed off with liberty to the petitioner to avail of the remedy of filing an election petition as may be permissible in Law. In the event it is proved in the election petition that this petitioner has suffered the loss of being disallowed for contesting the elections on account of the conduct of the Returning Officer, liberty is granted to seek damages.

(Ravindra V.Ghuge, J.)

