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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 9837 OF 2015**

Pandurang Digamber Kamble

....Petitioner

V/s.

Mr. Yaser Ramesh Bagwe and others

....Respondents

Ms. Akansha Helaskar i/b Ashutosh M. Kulkarni for the petitioner.

Mr. Anish Kahndekar for respondent no. 1

Mr. Mayur Jadhav i/b Sachindra Shetye for respondent no. 2

Mr. Abhijit P. Kulkarni for respondent nos. 3 & 15

CORAM : NITIN W.SAMBRE, J.**DATE : AUGUST 13, 2019.****P.C. :-**

The learned counsel for the petitioner seeks discharge for want of instructions.

2 Prayer is accepted. The appearance of the learned counsel Ms. Akansha Helaskar is discharged.

3 The petition is taken up for hearing as the issue involved is, in relation to setting aside the election of the petitioner in Election

Petition No. 16 of 2012 vide order dated 14th August, 2015. The petitioner got elected as counsellor for Prabhag No. 65A, Lohiyanagar, Pune.

4 The Election Petition was brought in action alleging that after the cut off date, 3rd child was born to present petitioner.

5 Through documentary and oral evidence, it is brought on record that daughter Mrunal is born on 11th November, 2001 in Purohit Hospital, Pune and birth certificate to that effect is placed on record. Petitioner was blessed with first son Shantanu born on 19th July, 1995, second son on 19th August, 1999 and 3rd child viz. Daughter Sony @ Mrunal on 11th November, 2011 referred supra.

6 Through documentary evidence viz. Copies of register of birth dated 19th July, 1995, 19th August, 1999 and 11th November, 2011 at Exhibit 132-134, birth of all three children of the petitioner came to be proved. Evidence of petitioner namely Yaser at Exhibit 74, evidence of Dr. Govind-P.W. 2 at Exhibit 126, birth of 3rd child was very much proved.

7 Apart from above, P.W. 3 Sou. Aparna, Addl. Registrar Birth and Death, Health Department, PMC who was examined at Exhibit 146 has proved the documents issued by its office about birth of the 3rd child.

8 In addition to above, school record of the Children, LIC Policy are also taken into account by the Election Tribunal for setting aside the election of the petitioner. Evidence of witnesses of the present petitioner was also appreciated.

9 All these material in detail was analysed by the learned Election Tribunal while concluding finding of setting aside the election of the petitioner.

10 Apart from above, the fact remains that election in question took place in 2012 and tenure of the petitioner has already come to an end in 2017.

11 Inspite of notice to the petitioner by his lawyer, petitioner is not coming forward to contest the present petition on merit.

12 In the aforesaid background, in my opinion, no case for interference is made out. Petition as such fails, stands dismissed.

(NITIN W.SAMBRE, J.)