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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 13032 OF 2019

Murji Kanji Patel

.....Petitioner

V/s.

Sandeep Raju Naik and others

.....Respondents

Mr. Pravin Samdani, Senior Advocate a/w Mr. Amogh Singh a/w Mr. Bhavin Bhatia a/w Mr. Vatsal Chorera for the Petitioner

Mr. Balkrishna. D. Joshi a/w Darshana S. Pawar for respondent no. 1

Mr. Santosh Parad for respondent no. 2/MCGM

Mr. Manish Bohra i/b Mr. S. B. Shetye for respondent no. 3

CORAM : NITIN W. SAMBRE, J.

DATE : DECEMBER 19, 2019.

P.C.

Heard respective counsel.

2 The submissions of Mr. Samdani, learned senior counsel for petitioner are, that the order impugned dated 11/12/2019 thereby permitting respondent-original election petitioner not pressing issue nos. 2 & 5 are without any reasoned order. According to him, the aforesaid issues are framed keeping in mind the pleadings of the election petitioner which are stigmatic and that being so, petitioner

who is respondent in election petition should get every opportunity to work on the same.

3 Shri. Joshi, learned counsel for respondent-original election petitioner would urge that the consequences of deletion of issue nos. 2 & 5 at the behest of original-election petitioner i.e. respondent herein shall follow. He would urge that once the issue of petitioner not belonging to OBC caste is confirmed upto Apex Court, consequences thereof will follow in the election petition and as such, respondent was justified in not pressing issue nos. 2 & 5.

4 Considered rival submissions.

5 In my opinion, election petitioner i.e. respondent herein who is represented through Mr. Joshi has every right to confine his prayers in the election petition to particular issues which are raised in the election petition. Once the election petitioner i.e. respondent herein has decided not to press issue nos. 2 & 5, necessary consequences will follow in the proceedings. Petitioner-respondent to the election petition cannot dictate the respondent that respondent-election

petitioner must continue with issue nos. 2 & 5.

6 As a consequence of above, the parties will be at liberty to lead their evidence on all the issues but for deleted issues i.e. issue nos. 2 & 5.

7 Learned counsel for the petitioner-original respondent undertakes to submit affidavit-in-evidence by 26/12/2019.

8 Since the statement is made on instructions, same is accepted as undertaking.

9 As far as rest of the issues which are pending before the Court taking up election petition is concerned, this Courts expects the Court to deal with the same in accordance with law.

10 With above observations, petition stands disposed of.

[NITIN W. SAMBRE, J.]