

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.2116 OF 2019

Milind s/o Bhimraoji Kadve

-vs-

State of Maharashtra, through Collector, Wardha and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri Ram D. Karode, Advocate for petitioner.
Ms S. Jachak, AGP for respondent Nos.1 and 2.
Shri S. K. Bhoyar, Advocate for respondent No.4.

CORAM : A.S.CHANDURKAR, J.

DATE : March 20, 2019

The petitioner is aggrieved by the acceptance of the nomination form of the respondent No.4 on the ground that the declaration submitted by the respondent No.4 on 05/03/2019 did not contain details of her house number and presence of toilet therein. According to the petitioner the nomination form was liable to be rejected in view of the provisions of Section 14(1) (j-5) of the Maharashtra Village Panchayats Act, 1958 since there was no declaration given therein as to existence and use of the toilet.

2. Shri R. Karode, learned counsel for the petitioner after referring to the self declaration form as well as the decisions in *Resurgence India vs. Election Commission of India and anr.* (2014) 14 SCC 189 and *Nimba Dashrat Koli and anr. vs. State of Maharashtra and ors.* 2015(3) Mh.L.J. 598 submits that the nomination form ought to have been rejected. On the other hand Ms. S. Jachak, learned Assistant Government Pleader

for respondent Nos.1 and 2 and Shri S. K. Bhoyar, learned counsel for respondent No.4 have relied upon the Minutes of Meeting held on 26/01/2019 wherein it is recorded that there was a toilet present in the house of the respondent No.4 as well as certificate dated 03/03/2019 issued by the Secretary of the Gram Panchayat indicating presence of the toilet. It is further submitted that the relevant objections were not raised by the petitioner and infact he had sought time to substantiate the same if the relevant records were given to him.

3. At this stage when the election programme is in progress and the voting is scheduled to be held on 24/03/2019, a prima facie view of the matter would have to be taken. The certificate dated 03/03/2019 read along with the resolution dated 26/01/2019 prima facie indicates presence of toilet in the house of respondent No.4. The effect of some information being kept blank in the declaration dated 05/03/2019 in the presence of these documents cannot be said to be a substantial defect warranting rejection of the nomination form. Hence, by keeping the grounds raised in the writ petition open for being raised at an appropriate stage if found necessary, the writ petition stands dismissed. No costs.

JUDGE