

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

Writ Petition No.4250 of 2017
Sarwat Anjum Mohd. Sajid Fulari

Versus

Maharashtra State Election Commission, through its Commissioner, Mantralaya,
Mumbai, and others.

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri R.J. Mirza, Advocate for Petitioner.

Shri J.B. Kasat, Advocate for Respondent No.1.

Shri A.S. Fulzele, Additional Government Pleader for Respondent
Nos.2 to 4.

Shri A.S. Sonare, Advocate for Respondent No.5.

Shri S.P. Dharmadhikari, Senior Advocate, assisted by
Shri R.K. Joshi, Advocate for respondent No.6.

Coram : R.K. Deshpande & Vinay Joshi, JJ.

Dated : 6th February, 2019

It is not disputed that the respondent No.6 was elected as President, Municipal Council, against a post reserved for Other Backward Class category for women. She was required to submit the caste validity certificate as a candidate belonging to OBC category from the competent Scrutiny Committee within a period of six months. The period of six months was to expire on 5-6-2017. Before that, the provisions of the Act were amended, and this period was lastly extended up to 12-10-2018. In the absence of submission of caste validity certificate on or before 12-10-2018, the respondent No.6 would have been disqualified from the post she was occupying.

It is not in dispute that the claim of the respondent No.6 was validated by the competent Scrutiny Committee on 28-6-2017. The respondent No.6 claims to have delivered the caste validity certificate to the Municipal Council on 29-6-2017. This fact is disputed by the petitioner. Reliance is placed upon the information sought under the Right to Information Act, communicating that there is no record available with the Municipal Council to show that the caste validity certificate was submitted by the respondent No.6 on 29-6-2017.

Whether the respondent No.6 submitted the caste validity certificate on 29-6-2017, is a disputed question of fact, and we fail to understand as to why the respondent No.6, who obtained such certificate on 28-6-2017, may not submit it to the Municipal Council to save her from disqualification being incurred. It may be possible that the certificate was submitted without having its entry in the inward/outward register, but that may not be a conclusive fact that the certificate was not submitted.

In view of above, we do not find any substance in this petition. The same is dismissed. Liberty to the petitioner to adopt such appropriate remedies, as are available in law.

(Vinay Joshi, J.)

(R.K. Deshpande, J.)