

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

WRIT PETITION NO.7150 OF 2016

(Sau. Pushpa Eknath Dafare Vs. The Election Officer, Municipal Council, Nagpur)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri R.R. Vyas, Advocate for Petitioner.
Shri A.M. Balapande, AGP for Respondent.

CORAM: RAVINDRA V. GHUGE, J.

DATE: 8th JANUARY, 2020.

1] The petitioner had approached this Court with a grievance that her nomination form tendered on 17.12.2016 for contesting the election from Ward No.2 reserved for the Other Backward Class (Female) category, was rejected only for the reason that, at one place below an undertaking, the petitioner had inadvertently not affixed her signature.

2] This matter was heard by this Court on 27.12.2016 and with a speaking order, ad-interim relief was granted to the petitioner in terms of prayer clause (b). Consequentially, the petitioner was permitted to contest the election from the said ward.

3] It is now informed that the petitioner has succeeded in the election and is a returned candidate.

4] The learned Advocate appearing on behalf of the applicant who has preferred a Civil Application No.422/2017 seeking intervention in this matter, submits that the applicant was one of the contesting candidates. It is

submitted that an appropriate order be passed by this Court.

5] The learned AGP submits that this petition can be disposed off in terms of the interim order dated 27.12.2016.

6] I find from Rule 13(4) of the Maharashtra Municipalities Election Rules, 1966 that a Returning Officer has to perform a preliminary scrutiny of the nomination form and if he finds that there is an error or a deficiency which is of a minor or technical character, such a deficiency can be removed by permitting the applicant to do the needful. If the defect is of a substantial character, the nomination form will have to be rejected since a substantial defect cannot be cured either at the time of tendering of the nomination form or at the time of the scrutiny.

7] It is obvious from the record that the petitioner failed to affix her signature or thumb impression, as the case may be, below an undertaking. The nomination form was complete in all respects. Barring this minor defect, the nomination form was in order and deserved to be accepted. In my view, such a defect is of a nominal character and the defect can be removed by permitting the petitioner to sign upon the place where the signature was inadvertently not affixed.

8] Considering the above, and keeping in view the ad-interim relief on 27.12.2016 granted by this Court, this petition is allowed in terms of prayer clause (b). The nomination form of the petitioner shall therefore, be treated as being valid.

9] Pending civil application does not survive and

stands disposed off.

(Ravindra V. Ghuge, J.)

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