

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

903 WRIT PETITION NO. 3 OF 2021

**RUKHMINI SHESHRAO SHINDE
VS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. A. A. Khande, Advocate for the petitioner
Mr. R. D. Sanap, AGP for the respondent No. 1 to 3
Mr. A. B. Kadethankar, Standing counsel for respondent No. 4

**WITH
904 WRIT PETITION NO. 4 OF 2021**

**TATYARAO RAMA SHINDE
VS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. A. A. Khande, Advocate for the petitioner
Mr. S. B. Pulkundwar, Advocate for respondent Nos. 1 to 3
Mr. A. B. Kadethankar, Standing counsel for respondent No. 4

**CORAM : RAVINDRA V. GHUGE, J.
DATE : 02-01-2021**

P. C.

1. By the first petition, the petitioner challenges the rejection of her nomination form on the ground that though she has disclosed the number of the children at one place in the nomination form, she has failed to mention such number of children at another place in the nomination form.

2. I have considered the strenuous submissions of the learned counsel for the petitioner and learned counsel on behalf of respondent Nos. 3 and 4. I have also heard the learned Government Pleader on behalf of respondent Nos. 1 and 2.

3. It is glaring from the nomination papers page-21 Sr. No. 4 that the petitioner has disclosed the number of her children as being three. At the same time, it is clear from page 31, which is a declaration form wherein the petitioner has failed to declare how many children were born before and after the cutoff date. It is obvious from the scrutiny paper at page 11 that the Election Officer has remarked as 'incomplete information with regard to declaration about number of children of the petitioner'.

4. Learned counsel for the Returning Officer, on instructions submits that the Returning Officer failed to notice the mandate of Rule 11(2A) of the Maharashtra Village Panchayats Act, 1959 vide which the candidate has to be given time to correct a minor mistake before the last date of the scrutiny of the nomination form which was at 03.00 pm on 31-12-2020. The petitioner has placed on record the school leaving certificate of her third child, dated 28-07-2015 at page 48 which indicates the date of birth as 01-09-1996.

5. In view of above, as a minor deficiency is found in the

declaration as regards to the number of children and since the deficiency is curable in the light of law laid down by the Hon'ble Apex Court at the time of scrutiny of the nomination papers, this petition is allowed. The Nomination form of the petitioner shall be accepted by respondent No. 3 and she shall be permitted to contest the election. In the event of the petitioner getting elected, her election shall be subject to the result of any dispute if raised by any person with regard to the number of her children, especially the birth of the third child after the cutoff date which is 13-09-2000, in the light of the full bench decision of this court in the case of *Subhash Sajesingh Gavit Vs the Returning Officer ZP Nandurbar and ors in writ petition No. 6993 of 2008*.

6. The petitioner shall cure the deficiency at page 31 before the Returning Officer by 12.00 noon on or before 04-01-2021 since the time ends at 05.00 pm on 04-01-2021.

7. In the second petition as well, an identical fact situation emerges. It is undisputed that the first child of the petitioner is born on 07-01-1992, the second child on 10-11-1993 and the third child on 15-02-1996. The petitioner has already declared that he has three children. As such, this petition is also allowed.

8. The Returning Officer shall permit the petitioner to tender the information which is missing only at one place, by 12.00 noon on 04-01-2021 and accept the nomination form pursuant to

(4)

wp3.21

such correction.

9. Since the order has been dictated in the open court, the parties need not wait for the order to be uploaded on the official website of Bombay High Court.

[RAVINDRA V. GHUGE, J.]

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