

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

WRIT PETITION NO.58 OF 2021

Sundarabai w/o Sanjay Bhill (Pawar)
@ Sunanda d/o Narayan Barde,
Age 41 years, Occ-Agril.,
R/o Taroda, Tq. Muktainagar,
Dist.Jalgaon.

.. PETITIONER

VERSUS

- 1] State of Maharashtra
Through Principal Secretary,
Gramvikas Department,
Mantralaya, Mumbai-32
- 2] Returning Officer,
Taroda, Tq. Muktainagar,
Dist.Jalgaon.
- 3] Indubai Suresh Daverao,
Age 40 years, Occ-Agril.,
R/o Taroda, Tq. Muktainagar,
Dist.Jalgaon.

.. RESPONDENTS

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Shri Sagar S. Phatale, Advocate for petitioner
Shri S.B.Pulkundwar,A.G.P for respondent no.1
Shri A.B.Kadethankar, Standing Counsel for respondent no.2.

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CORAM : MANGESH S. PATIL, J.
DATE : 04.01.2021

ORAL JUDGMENT :-

Heard. Rule. The Rule is made returnable forthwith. With the consent

of both the sides, the matter is heard finally at the stage of admission.

2] The petitioner filed her nomination for election from Ward No.1(C) of village Taroda, Tq. Muktainagar, District Jalgaon against a post reserved for Scheduled Tribe (Women) category in the elections which are underway under the provisions of the Maharashtra Village Panchayat Act, 1959 and the Maharashtra Village Panchayat Election Rules framed thereunder. By the impugned order the respondent-Returning Officer has rejected her nomination on the ground that from the papers filed with the nomination one cannot ascertain if petitioner's surname is 'Pawar' whose name appears in the voters list with surname 'Bhill'.

3] The learned advocate Mr.Phatale for the petitioner would submit that petitioner is illiterate. Her maiden name was Sunanda Narayan Barde in which name she has received a caste certificate as well as a certificate of validity. In all other papers i.e. the nomination forms, voters list and Adhar card her name appears with surname Bhill. Therefore, there was no reason for creating any confusion in the mind of the Returning Officer merely because at some places she has mentioned her surname as Pawar. The learned Advocate would further submit that in view of the provisions of Rule 11 (2-A) of the Election Rules, the Returning Officer ought not to have rejected the nomination since the defect was not of substantial character. Besides, the State Election Commissioner has also issued guidelines in April 2015 (Exh.F) directing the Returning Officers not to reject the nominations for technical reasons.

4] *Per contra*, the learned Advocate Mr.Kadethankar submits that the error

is apparent on the face of record. The affidavit filed by the petitioner with the nomination sworn before the Executive Magistrate (page 32) mentions her name as 'Pavar', whereas in the affidavit which she filed (page 45) she has described her surname as 'Pawar'. It is in view of such state of affairs, the Returning Officer has entertained a reasonable doubt as to the identity of the petitioner.

5] The learned Advocate Mr.Phatale would submit that even at the time of scrutiny the petitioner had tendered her explanation in writing (Exh.E) asserting that she is one and the same person who is known as Sundarbai Sanjay Bhill, Sunanda Narayan Barde and Sundarbai Sanjay Pawar.

6] I have gone through the papers. It is a matter of record that though the petitioner filed the nomination with surname Bhill as her name appears in the voters list, in the scrutiny sheet (page 16) prepared by the Returning Officer in her presence, on the receipt regarding payment of Rs.100/- (page 18) in the affidavit sworn before the Executive Magistrate (Exh.32) as well as the affidavit (page 45) sworn before the Executive Magistrate she described her surname as Pawar. Conspicuously in this affidavit (page 45) there is no whisper regarding surname 'Bhill'. It is in view of such state of affairs, all these documents indeed create a doubt as to if it is the same individual, who is known by surname Pawar as well as Bhill.

7] As regards tendering of the explanation before the Returning Officer (Exh.E), merely because the petitioner asserted that she is the same person one cannot expect the Returning Officer to have undertaken a further scrutiny more so when this exercise was being undertaken on 31/12/2020 which was

the last date for scrutiny of nomination forms according to the election program.

8] Howsoever innocent the petitioner might be, the circumstances are the creation of her own making. The impugned order takes a reasonable view which cannot be said to be either perverse or arbitrary much less illegal.

9] The Writ Petition is dismissed. The Rule is discharged.

[MANGESH S. PATIL, J.]

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