

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

WRIT PETITION NO. 57 OF 2021

Kharate Gajanan Subhash,
Age 38 years, Occ. Agriculture,
R/o. A/P. Wakadi, Tq. Jamner,
District Jalgaon.

... **Petitioner.**

VERSUS.

- 1) The State of Maharashtra.,
General Administration Department,
Mantralaya, Mumbai – 32.
Through its Chief Secretary.
- 2) District Collector, Jalgaon,
Tq. & Dit. Jalgaon.
- 3) The Returning Officer,
Group Grampanchayat Wakadi,
Tq. Jamner, Dist. Jalgaon.
- 4) The State Election Commission. ... **Respondents.**

...

Advocate for Petitioner :Mr. Azizoddin Syed, h/f Mr. Brahme Shailesh P

AGP for Respondents No. 1 & 2 : Mr. S.B. Pulkundwar.

Advocate for Respondents No. 3 and 4 : Mr. A.B. Kadethankar.

CORAM : MANGESH S. PATIL, J.

DATE : 04.01.2021.

ORAL JUDGMENT :

Leave is granted to correct the name of respondent No. 4.

2. 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.

3. Nomination of the petitioner for the post of Member of Group Grampanchayat Wakadi from Ward No. 1B has been held to be invalid by the respondent-Returning Officer.

4. The learned advocate for the petitioner submits that on oral enquiry with the Returning Officer he has informed that he was rejecting the nomination for the

only reason that the nomination paper did not bear signature of the petitioner at some places.

5. The learned advocate for the petitioner submits that the impugned order does not assign any reason for invalidation. The petitioner was very well present before the Returning Officer which can be seen from the common order passed after the scrutiny (Exhibit 'C'). The Returning Officer ought to have extended an opportunity to cure the defect. He having failed to do so the impugned order be quashed and set aside.

6. Learned advocate Mr. Kadethankar submits that though the impugned order does not assign any reason for rejection of the nomination of the petitioner, from the papers he could perceive that it is only because the signature of the petitioner was wanting on some of the papers filed with the nomination, as the ground for which, in all probability, the nomination must have been rejected.

7. *Ex facie*, the impugned order does not assign specific reason as to why the nomination form of the petitioner has been rejected.

8. The impugned order (Exhibit 'C') clearly shows that the petitioner was present before the respondent-Returning Officer and even signed against his name acknowledging scrutiny. Therefore except the statement made by the learned advocate for the petitioner on instructions, there is absolutely nothing to ascertain as to for what reason or on which ground the Returning Officer has chosen to reject the nomination.

9. Assuming that it has been rejected, as is submitted by the learned advocate for the petitioner, for want of signature of the petitioner on the nomination form, the respondent-Returning Officer certainly could have allowed him to cure the defect, more so when the petitioner was present before him.

10. The learned advocate for the petitioner on instructions submits that the petitioner would remain personally present before the Returning Officer before 2.15 p.m. today and should be allowed to sign the nomination form.

11. Considering all the aforementioned facts and circumstances in my considered view the Writ Petition deserves to be allowed.
12. The Writ Petition is allowed. The impugned order is quashed and set aside. The Returning Officer shall permit the petitioner to put his signature on the nomination form before 2.15 p.m. today and shall accept his nomination.
13. The learned advocate Mr. Kadethankar for the Election Commission as well as the learned advocate for the petitioner are instructed to communicate this order to the Returning Officer. Simultaneously, the petitioner shall file an affidavit about passing of this order before the Returning Officer.
14. The Returning Officer shall proceed to act on the basis of the affidavit to be tendered by the petitioner.
15. The rule is accordingly made absolute in above terms.

(MANGESH S. PATIL, J.)

mkd/-