

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

WRIT PETITION NO. 190 OF 2021

Kantabai Prakashrao Ghuge Vs. Returning Officer/Tahsildar, Gram Panchayat ,
Masrul, Tah. Malegaon, District Washim.

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

Court's or Judge's orders.

Shri A.V. Band, Advocate for petitioner.
Shri S.M. Ukey, Addl. GP for respondent.
Shri U.J. Deshpande, Advocate for intervenor-Lalita.

CORAM : V.M. DESHPANDE, J.

DATE : JANUARY 13, 2021.

CIVIL APPLICATION (CAW) NO. 69 OF 2021

This civil application was not on today's board. In the morning session, Shri Deshpande, learned counsel for the intervenor -Lalita Ghuge, made a request to this Court that Writ Petition No.190 of 2021 be taken up on board at 02:30 p.m. because on 11.01.2021 petitioner – Kantabai by suppressing material fact from this Court, has obtained interim order.

(2) In view of this, this Court has granted circulation of this civil application along with writ petition at 02:30 p.m. At the same time, this Court asked the learned Additional Government Pleader of this Court Shri S.M. Ukey to take instructions in respect of the statement of fact made by intervenor – Lalita, in her intervention application.

(3) The intervention application is allowed and disposed of accordingly.

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(4) On 11.01.2021, it was canvassed before this Court by the petitioner through her counsel that the petitioner though was intended to contest from Ward No.1 for a seat “General (Woman)” from Gram Panchayat, Marsul, Tahsil Malegaon, District Washim, her name was shown as a candidate contesting election from Ward No.1 “General” and not from “General (Woman)”. On 11.01.2021, some documents were pointed out to this Court by learned counsel Shri Amit Band and relying on the said documents this Court passed interim order, primarily because the nomination paper of the petitioner was accepted. However, instead of “General (Woman)” seat, her name was appearing from “General” only. Therefore, interim order was that the petitioner was permitted to contest the election from Ward No.1 for the seat “General (Woman)” of Gram Panchayat, Masrul. It was observed that election process may go on and the election result shall be subject to result of this petition.

(5) Today, intervenor – Lalita Yashwant Ghuge, who is also one of the contestants in Gram Panchayat, Masrul for Ward No.1, pointed out to the Court that on 04.01.2021 intervenor was the only candidate from General (Woman) category and therefore the Election Officer published the list of the candidates contesting the election on notice board. This particular notice is suppressed by the petitioner in the present petition thereby suppressing the fact that the

intervenor was found to be the only candidate and was unopposed, though the certificate as elected candidate will be given to her on the date of counting of votes.

(6) The learned Additional Government Pleader also on instructions from authorities supported the submission made by learned counsel for intervenor.

(7) It is really unfortunate on the part of the petitioner not to disclose the such a material fact before the Court. It is altogether different what could have been the effect of that notice on the merits or demerits of the petition. It is quite possible that the Court would have taken the very same view, which the Court has taken on 11.01.2021. However, it is a very cardinal principle of law that a litigant, who is approaching to the Court must approach with clean hands. Suppression of material fact is never accepted by the Court. On 11.01.2021, it was more the duty of the petitioner to disclose each and every happenings, since on the said day nobody were present from the respondent's side.

(8) The learned counsel for the petitioner upon asked, was required to cut sorry figure and could not offer any explanation except the submission that his apology be accepted.

(9) This Court could have taken a very serious of the matter, however, the learned counsel for the petitioner is a young advocate and for his one mistake, this Court will be the last Court to create hurdles in his professional life. Therefore, this Court only expresses concern and direct the learned Advocate that in future he should not commit such mistakes and blunders.

(10) Since the petitioner has obtained interim order from this Court by suppressing material fact surely the petitioner is not entitled for any interim relief.

(11) The learned Additional Government Pleader Shri Ukey, invited my attention to page Nos.12 and 13 of the petition, which are the declaration given by the petitioner, especially the page No.13 reads as under :

“मी याद्वारे असे घोषित करतो की मी महाराष्ट्र
राज्याच्या संबंधात *GEN* प्रवर्गमधील व्यक्ती आहे”

(12) Since the petitioner has obtained interim order by suppressing material fact though this Court can observe in very harsh words, the Court is refraining itself from using any harsh language.

(13) Needless to mention, petitioner is not entitled any discretionary relief, hence the interim order dated 11.01.2021 stands vacated.

(14) The election is scheduled on 15.01.2021. Since the petitioner herself has applied for contesting from “General” seat and her nomination is accepted for seat, there is no merit in the petition that she be permitted to contest from seat General (Woman) hence, there is no merit in the petition. The writ petition is dismissed. No order as to costs. All pending applications are disposed of.

JUDGE

Wagh