

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

CAW NOS.237/2021 & 238/2021

AND

WRIT PETITION NO85/2021

Gazala Bi Saddam Shah vs. The Collector, Buldhana and anr

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

Court's or Judge's Order

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Shri R.L.Khapre, Counsel for the Applicant.
Shri N.B.Kalwaghe, Counsel for the Petitioner.
Shri S.M.Ukey, Addl.G.P. for respondent Nos.1 and 2.

CORAM : V.M.DESHPANDE J.

DATED : FEBRUARY 04, 2021.

1. In view of *interim* order dated 4.1.2021, the petitioner was allowed to contest election from Backward Class Citizen Women Category for Gram Panchayat Dongaon, district buldhana.

2. It is contention of learned counsel Shri N.B.Kalwaghe for the petitioner that in the said election the petitioner is declared elected.

3. Today, this writ petition came up in view of Civil Application Nos.238 and 237/2021 filed in this writ petition by one Salma Bi w/o Syed Noor. Civil Application No.238/2021 is for joining her as respondent in this petition. Whereas, Civil Application No.237/2021 is for vacation of the *interim* relief.

4. According to learned senior counsel Shri R.L.Khapre for the applicant, the applicant was only candidate whose nomination papers were accepted for seat

from Backward Class Citizen Women Category. According to him, the petitioner never applied for the said seat.

The above said is seriously disputed by learned counsel Shri N.B.Kalwaghe for the petitioner.

5. Learned Additional Government Pleader Shri S.M.Ukey for respondent Nos.1 and 2, prays time for filing submissions on behalf of Returning Officer to this petition as well as to the application for vacation of stay.

6. Learned counsel Shri N.B.Kalwaghe for the petitioner, also prays time to file reply to application for vacation of stay.

7. Both these applications were served upon learned counsel Shri N.B.Kalwaghe for the petitioner on 27.1.2021, as it could be seen from endorsement given by him in left column of applications. However, till today, reply is not filed and he prays time.

8. Looking to serious factual dispute as to whether really the petitioner filed her nomination papers for seat from Backward Class Citizen Women Category, reply on behalf of Returning Officer is must.

9. Learned senior counsel Shri R.L.Khapre for the applicant, opposed adjournment because election for Sarpanch and Up-Sarpanch is scheduled to be held on 9.2.2021.

10. Since reply of Returning Officer is utmost necessary for deciding controversy involved in this writ petition and when learned Additional Government Pleader Shri S.M.Ukey for respondent Nos.1 and 2 is praying time

beyond 9.2.2021, I am of view that this is a fit case wherein the Court should stay election of Sarpanch as well as of Up-Sarpanch, till the matter is heard, after considering reply filed by Returning Officer.

11. For reasons stated in Civil Application No.238/2021 for joining Salma Bi w/o Syed Noor as respondent in this petition, the application is allowed. The petitioner is directed to join the applicant as respondent No.4. Amendment to be carried out forthwith.

The civil application is disposed of accordingly.

12. Put up this writ petition along Civil Application No.237/2021 on 24.2.2021 at 2:00 p.m.

13. The petitioner is directed to join the State Election Commission as party respondent No.3. Amendment to be carried out forthwith.

14. Learned counsel Shri J.B.Kasat, waives service on behalf of respondent No.3.

15. Learned Additional Government Pleader Shri S.M.Ukey for respondent Nos.1 and 2, is directed to keep present entire record on next date of hearing.

16. Copy of this order duly authenticated by the Court's Sheristedar be supplied to parties to be acted upon.

JUDGE

!! BRW !!

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