

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

WRIT PETITION NO.5314/2021

Ravi S/o Ratnayya Nelkudri

..Vs..

The State Election Commissioner, Mumbai and others

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

Court's or Judge's Order

Mr. Rohit Joshi, Advocate for the petitioner.

Mr. J.B. Kasat, Advocate for respondent No.1.

Mr. K.L. Dharmadhikari, A.G.P for respondent Nos.2 and 3.

CORAM :- SUNIL B. SHUKRE AND
ANIL L. PANSARE, JJ.

DATED :- 15.12.2021.

Heard Shri Joshi, learned counsel for the petitioner, Shri Kasat, learned counsel for respondent No.1 and Shri Dharmadhikari, learned A.G.P for respondent Nos.2 and 3 who appear by waving notice.

2. Although it is stated that in respect of two nomination forms submitted by the petitioner, one with the name of Ravi Ratnayya Nelkudri and the other as Ravindra Ratnayya Nelkudri, the petitioner had only made an application for withdrawal of nomination form which was made in the name as Ravindra Ratnayya Nelkudri, we find that out of these two nomination forms, it was only the nomination form which was made in the name of Ravi Ratnayya Nelkudri was accepted and included in the list of validly nominated candidates in Form IV of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Election Rules,

1966 (for short “Rules of 1966”). We further find that the list of validly nominated candidates in Form IV was published on 9.12.2021, which forms part of the documents submitted across the Bar by Shri Kasat, learned counsel appearing for respondent No.1, which have been taken on record and collectively marked as document “A” for identification.

3. It is the list of validly nominated candidates in Form IV which matters as per the provisions made in rule 13(8) of Rules of 1966 and not anything else. If any withdrawal of nomination is to be made, for which there is a specific provision made in rule 17, it has to be made only after the publication of the list of validly nominated candidates in Form IV.

4. In the present case, it appears that the petitioner relied upon, not the list of validly nominated candidates published in Form IV on 9.12.2021 but the list of the candidates whose nomination forms were accepted and which list was published on 8.12.2021 (page 22), for the purpose of submitting his application for withdrawal of the nomination form on 13.12.2021. This list at page 22 does show that two nomination forms, one in the name of Ravi Ratnayya Nelkudri and the other in the name of Ravindra Ratnayya Nelkudri “have been accepted”. This list does not show that the nomination forms have been considered to be of the candidates validly nominated for the purpose of election as required under rule 13(8). It must be understood here that the requirement of law being of publication of list of validly nominated candidates in Form IV, any publication of any other list

showing nomination form as “accepted” would not be a list published in accordance with requirement of law and, therefore, no candidate shall rely on such list and take it to be a list which declares the valid candidature of the candidate whose nomination form has been accepted. Such list like one at page 22 would at the most indicate that the nomination form has been accepted for further processing and has not been rejected at the threshold on some technical ground.

5. In the instant case after publication of the list at page 22 on 8th December, 2021, the list in Form IV of the validly nominated candidates was published on 9.12.2021. As stated by us, this was the relevant list for taking an appropriate decision regarding withdrawal or continuance of the nomination for the election. But, the petitioner, considered the list at page 22 published on 8.12.2021 as the standard list fulfilling the requirement of law and thus misguided himself for making an application for withdrawal of his nomination form on 13.12.2021. Of course, this application dated 13.12.2021 (page 25) was made in the name of Ravindra Ratnayya Nelkudri but mention of this name did not matter for the Returning Officer for the reason that by filing an affidavit dated 5.12.2021 alongwith nomination form, the petitioner had already declared that Ravi Ratnayya Nelkudri and Ravindra Ratnayya Nelkudri both are the names of one and the same person, that is he himself, and as such it was not necessary for the Returning Officer to pay any attention to the name in which the withdrawal application was made. After all, the petitioner himself

had declared that the name Ravindra Ratnayya Nelkudri and the name Ravi Ratnayya Nelkudri were of the same person that is of the petitioner. Thus, we find no merit in this petition.

6. Before parting with the order, we would like to observe here that had the petitioner been careful in this matter, the petitioner would not have lost the opportunity to contest the election. The list of validly nominated candidates (Form IV) as required under rule 13(8), and published on 9.12.2021, had already shown the name of the petitioner, Ravi Ratnayya Nelkudri as a validly nominated candidate and, therefore, it was not necessary for the petitioner to have made an application for withdrawal of his nomination form on 13.12.2021. But, the petitioner did make the application though in the name as Ravindra Ratnayya Nelkudri but, in view of his own declaration given in his affidavit dated 5.12.2021 Ravi and Ravindra were the names which stood for the one and the same person, the Returning Officer treated withdrawal application as the one filed by the same person who would go by the name Ravi Ratnayya Nelkudri and also by the name Ravindra Ratnayya Nelkudri. This is where the petitioner committed a mistake and this deprived him of an opportunity to contest the election. The petition, for the reasons stated above is **dismissed**. No costs.