

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

1 WRIT PETITION NO.2628 OF 2023

**RAJENDRA RAMKRUSHNA POTDAR
VERSUS
THE STATE OF MAHARASHTRA
THROUGH THE SECRETARY AND OTHERS**

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Advocate for Petitioner:
Mr. Wagh Shrinivas S & Mr. Nagode Datta Govindrao
AGP for Respondent/State: Ms. V. N. Patil-Jadhav
Advocate for Respondent Nos.2&4: Mr. V. H. Dighe

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CORAM: ARUN R. PEDNEKER, J.

DATE: 06th MARCH, 2023

PER COURT:

1. The Petitioner is challenging the order dated 22.02.2023, passed by the Returning Officer / Respondent No.4 and also the order dated 28.02.2023, passed by the appellate authority / Respondent No.3, wherein the Respondent No.3 has upheld the order passed by Respondent No.4 / Returning Officer rejecting the nomination of the Petitioner. Respondent No.4 / Returning Officer rejected the nomination of the Petitioner on the ground that the seconder of the Petitioner did not pay the full share amount. Respondent No.3 /

appellate authority by order dated 28.02.2023, dismissed the appeal on the ground that the petitioner had not paid the requisite court fees of Rs.100/-.

2. The petitioner submits that he would make the payment of Rs.100/- and the appeal be restored. Although, notices are issued in the matter and private notices are served upon all the respondents and affidavit to that effect is filed by the petitioner, none has appeared for the private respondents.

3. The order dated 28.02.2023, passed by the appellate authority / Respondent No.3 is set aside. The matter is remitted back to the appellate authority / Respondent No.3 for fresh consideration.

4. The petitioner undertakes that he would appear suo moto before the appellate authority, on 08.03.2023 and would deposit the amount of court fees of Rs.100/- and argue the matter on merits.

5. However, it is made clear that the remand of the matter would not entitle the petitioner to contest the elections if the election process has proceeded ahead and it is not possible to accommodate the Petitioner without disturbing the election programme. It is also clarified that, I have not observed anything on merits of the Appeal.

6. The learned AGP, so also, the learned Counsel appearing for Respondent Nos.2 and 4 to communicate this order to the appellate authority.

7. The Writ Petition is disposed of with above directions.

8. Parties to act upon the authenticated copy of this order.

[ARUN R. PEDNEKER, J.]

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