

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

WRIT PETITION NO. 1611 OF 2023

Nida Naaz Mohammad Fahim thr POA__ Vs. __Tika Khan Noor Khan and anr

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

Court's or Judge's orders

Mr. Abhay Sambre, Advocate for petitioner
Mr. M.V.Bute, Advocate for respondent no.1
Ms. T.H.Khan, AGP for respondent no.2

CORAM : AVINASH G. GHAROTE, J.

DATE : 28/03/2023

1] On 15.3.2023, the following position was recorded :

“2. The contention is that on the date of filing of the nomination i.e. 26/12/2020, the petitioner was not major i.e. of the age of 21 years on account of school leaving certificate filed by her (page 38) having been found to be of an incorrect register number. It is however material to note that even if this certificate is ignored, the school leaving certificate at page 37 indicates the date of birth of the petitioner as 01/6/1999. This is also the position in Adhar card at page 20, which would make the age of the petitioner as 21 years 5 months and 26 days on the date of the filing of the nomination 26/12/2020. Apart from the above, no material is placed on record by Mr. Bute, learned counsel for respondent no.1 to indicate that the

actual date of birth of the petitioner was something other than 01/6/1999. The learned Addition Commissioner has refused to grant stay merely on the contention that the petitioner was less than 21 years on account of the TC being found to be incorrect, without taking into consideration what would be the exact date of birth of the petitioner; considering which issue notice for final disposal returnable on 28th March, 2023.”

3] Even today, Mr. Bute, learned counsel for the respondent no.1 has not placed on record any material to indicate that the actual date of birth of the petitioner was something other than 1.6.1999 and therefore, the impugned order dated 8.3.2023 (pg. 10), which proceeds merely on this premises, without considering anything else, except for the averment of the respondent no.1, cannot be sustained, in view of which the order dated 8.3.2023 passed by respondent no.1 is hereby quashed and set aside and the matter is remitted back to respondent no.1 to decide the appeal afresh in accordance with law.

4] The petition is allowed in above terms. No costs.

JUDGE

Digitally sign by RAJESH
VASANTRAO JALIT
Location:
Signing Date: 29.03.2023 15:01