



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

Writ Petition No.7423/2025

Shamim Parvin Afsar Khan V Returning Officer, Jalgaon Jamod Municipal Council Elections,
Buldhana and others

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

Court's or Judge's orders

Mr. R.J. Kankale, Advocate for petitioner.
Mr. S.V. Narale, AGP for respondent no.1.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 27-11-2025.

Heard learned Advocate for the petitioner.

2. By this petition, the petitioner has challenged judgment and order dated 25-11-2025 passed by the Court of District Judge-1, Khamgaon, allowing the Election Appeal No.07/2025 and consequently, rejecting the nomination form of the petitioner.

3. The petitioner had filed nomination form for contesting the election of Municipal Council Jalgaon Jamod from Ward No.06. Nomination Form of the petitioner was accepted by the Returning Officer. Respondent no.2 herein filed an appeal under Rule 15 of the Maharashtra Municipal Councils and Nagar Panchayat Election Rules, 1966, before the District Judge, Khamgaon challenging the acceptance of nomination form of the petitioner on the ground that the affidavit submitted by the petitioner along with the nomination form was not a legal affidavit and the form was thus incomplete/defective. By judgment and order dated 25-11-2025, the election appeal came to be allowed and resultantly, the petitioner's nomination form is rejected.

4. Learned Counsel for the petitioner submitted that the appellate Court failed to consider the crucial aspect that the license of the Notary before whom the affidavit in question was sworn in was renewed for the period from 27-01-2025. He submitted that the inferences of the appellate Authority about the affidavit not being a legal affidavit only because of expiry of license of Notary of Mr. S.A. Gupta, are without any basis.

5. A perusal of impugned order shows that to deal with the issue of validity of Notary license of Mr. S.A. Gupta, the appellate Court has relied upon the correspondence issued by the Civil Judge, Junior Division, Jalgaon Jamod in which it was stated that the Notary license of Mr. S.A. Gupta was valid for five years from 21-07-2020. After considering the documents on record, the appellate Court has concluded that the affidavit submitted by the petitioner along with the nomination form cannot be considered to be a legal affidavit and the form deserves to be rejected.

6. The relevant observations of the appellate Court as recorded in paragraph 08 is reproduced below as under :-

“08. After gone through the pleadings and material placed before the Court, it is very much clear that the respondent No.2 has affirmed the affidavit before the Mr. S.A. Gupta on 15/11/2025, however, on that day Mr. S.A. Gupta was not having certificate in force to practice as a notary. Whereas section 9 of the Notaries Act makes a bar to practice without certificate in force. Accordingly, the affidavit annexed with the nomination form by the respondent no.2 can not be treated as a legal affidavit. As per the Gazette dated 21 October 2016, the annexing the affidavit along with the nomination form is mandatory. Hence, the nomination form of the respondent no.2 is liable to be rejected.”

7. Pertinently, although learned Counsel for the petitioner has submitted that the license of the concerned Notary was renewed w.e.f. 27-01-2025, however it has to be seen that the license was renewed by the competent authority on 25-11-2025. As such it is clear that, on the day of scrutiny of nomination forms there was no valid license with the Notary. Learned Counsel for the petitioner submitted that this defect cannot be attributed to the petitioner since she was not at fault. However, the fact remains that, the affidavit submitted by the petitioner was sworn before a Notary whose license was renewed only on 25-11-2025 and was not valid as on 18-11-2025. In view of this, no perversity is found with the view taken by the appellate Court.

8. Further, as regards the position of law with respect to interference in election matters, it is fairly settled that the Courts have to adopt a judicial hands-off attitude in view of Article 243-ZG of the Constitution of India debarring the writ Court under Articles 226 and 227 of the Constitution of India from interfering in the election process till it is over. Reliance can be placed on the position of law as laid down by the Hon'ble Supreme Court in the matter of *State of Goa and another vs Fouziya Imtiaz Shaikh and another*, reported in (2021) 8 SCC 401.

9. Having regard to the above mentioned factual and legal aspects and particularly considering the settled position of law suggesting restraint in interference of election process, the instant petition deserves to be dismissed.

10. Hence, the writ petition is dismissed. No order as to costs.

(Prafulla S. Khubalkar, J.)