

(2015) 08 BOM CK 0055
In the Bombay High Court
Case No : Writ Petition No. 7738 of 2015

Asha

APPELLANT

Vs

State Election Commission and Others

RESPONDENT

Date of Decision : 01-08-2015

Acts Referred:

Citation : (2015) 08 BOM CK 0055

Hon'ble Judges : S.P. Deshmukh, J

Bench : Single Bench

Advocate : Kishor R. Doke, for the Appellant; S.T. Shelke, Advocates for the Respondent

Final Decision : Allowed

Judgement

S.P. Deshmukh, J—Rule. Rule made returnable forthwith. Heard learned counsel for parties, by consent.

2. Short point involved in the matter is whether the rejection by the returning officer under order dated 21-07-2015 of nomination filed by petitioner on the ground that she had not submitted requisite proof regarding submission of her caste claim for scrutiny to the committee can be sustained in the facts.

3. Learned counsel for the petitioner has drawn attention to the caste certificate at page 38 of writ petition referring to that petitioner is wife of one Pandurang Bondarde, bearing name Asha after marriage and her maiden name was Sunita Chandrakant Asalkar. That certificate has been placed on record along with nomination form. He also refers to page 35 of the petition which is a receipt dated 19-05-2010 whereunder her caste certificate had been submitted for scrutiny by the committee. It appears that since the name referred to in said receipt is Sunita Chandrkant Asalkar and not Asha Pandurang Bondarde, the same goaded the returning officer to reject the nomination.

4. Learned Assistant Government Pleader under the circumstances was directed to take instructions. He places on record a communication dated 31-07-2015

received from the scrutiny committee. The same is taken on record and marked "X" for the purpose of identification. It refers to that such a proposal by applicant Sunita Chandrakant Asalkar for scrutiny of her caste certificate is pending and that though from the proposal received from the Collector it appears to be there, the same is not being traced in the record.

5. In the circumstances, I think that no fault can be found on petitioner's part on account of submission of her caste claim who admittedly is Sunita Chandrakant Asalkar.

6. The order impugned as such is rendered unsustainable. Accordingly, the impugned order dated 21-07-2015 rejecting petitioner's nomination on the ground referred to above stands quashed set aside.

7. Writ petition is allowed in terms of prayer clause (B). Rule made absolute in aforesaid terms.

8. Learned counsel for respondent-State Election Commission, however, submits that it may be that it would not be possible to include petitioner's nomination in the list of valid nominations. In such a case, all efforts be made for inclusion of petitioner's name, unless it is technically impossible.

9. Parties to act on authenticated copy of the order. Learned counsel for State Election Commission and learned Assistant Government Pleader to communicate this order to the authorities concerned.