

Kalpana Ananda Sutar and others Vs The State of Maharashtra and others

Court: Bombay High Court (Aurangabad Bench)

Date of Decision: Jan. 28, 1998

Acts Referred: Bombay Village Panchayats Act, 1958 " Section 15, 15
Constitution of India, 1950 " Article 243

Citation: (1998) 3 ALLMR 106 : (1998) 3 BomCR 712 : (1998) 2 MhLj 626

Hon'ble Judges: R.G. Deshpande, J; A.D. Mane, J

Bench: Division Bench

Advocate: R.R. Mantri, A.M. Gholap and V.J. Dixit, for the Appellant; V.D. Sapkal, S.K. Tambe and K.G. Patil, A.G.PS.,
for the Respondent

Judgement

@JUDGMENTTAG-ORDER

A.D. Mane, J.

The central point involved in all these petitions is common and it relates to the election to Panchayat. The grievance of the

petitioners is that the Returning Officer committed an error in rejecting their nomination forms to contest the elections of Village Panchayat. The

question arises whether rejection or acceptance of nomination form falls within the bar created by section 15-A of the Bombay Village Panchayats

Act, 1958. Section 15-A of the Act provides that, "no election to any Panchayat shall be called in question except in accordance with the

provisions of section 15; and no Court other than the Judge referred to in that section shall entertain any dispute in respect of such election.

2. In order to appreciate this question, regard may be had to the word "election" as interpreted by the Apex Court in the case of N.P. Ponnuswami

Vs. Returning Officer, Namakkal Constituency and Others, . The Supreme Court laid down that the word "election" has been used in Part XV of

the Constitution in the wide sense, that is to say, to connote the entire procedure to be gone through to return a candidate to the legislature. The

use of the expression "conduct of elections" in Article 324 specifically points to the wide meaning, and that meaning can also be read consistently

into the other provisions which occur in part XV including Article 329(b). The term "election" may be taken to embrace the whole procedure

which consists of several stages and embraces many steps, whereby an "elected member" is returned, whether or not it be found necessary to take

poll. It is not used in a narrow sense. The Supreme Court, in that case, also held that rejection or acceptance of a nomination paper is included in

the term "election".

3. The construction of the word "election" as used in Part XV of the Constitution which includes Article 329(b) ipso facto applies to the word

election" as used in Part IX Article 243-K relating to election to the Panchayat. Therefore, if the term "election" is understood in proper

perspective which includes several stages and embraces many steps whereby an elected member if returned, the process of rejection or

acceptance of nomination paper forms a part of the term "election" and, therefore, section 15-A intervenes. Therefore, the bar created by section

15-A automatically applies even in a given case.

4. We may mention that on identical question, the Division Bench of this Court in (Writ Petition No. 4399/97 by its judgment and order dated 23-

10-1997) has held that the remedy to challenge the decision of the Returning Officer for rejection or acceptance of nomination form is only by way

of an election petition u/s 15 of the Bombay Village Panchayats Act, 1958.

5. In addition to the reasons which we have given, we agree with the view taken by the Division Bench. In that view of the matter, there is no merit

in the petitions. Writ Petitions stand rejected.

6. Petition rejected.