

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE**

**AND**

**THE HON'BLE SRI JUSTICE N.V.SHRAVAN KUMAR**

**WRIT PETITION No.31836 of 2023**

**ORDER:** *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. G.Srikanth, learned counsel for the petitioner.

Mr. Avinash Desai, learned Senior Counsel representing Ms. Divya Adepu, learned Standing Counsel for the Election Commission of India.

2. The petitioner is a resident of Madhira Assembly Constituency which is reserved for Scheduled Caste candidates. The petitioner has submitted her nomination paper on behalf of Bahujan Samaj Party. The aforesaid nomination paper has been rejected by the Returning Officer by an order dated 13.11.2023. The petitioner in this writ petition has sought quashment of the order dated 13.11.2023 and also sought a direction to the Returning Officer to accept her nomination paper.

3. Learned counsel for the petitioner submits that inadvertently the petitioner could not file the original of Form A & B and therefore her nomination paper has been rejected. It is further submitted that on account of mere technicalities, the nomination paper cannot be rejected.

4. On the other hand, learned Senior Counsel for the Election Commission of India has submitted that the process of election has already commenced and under Article 329(b) of the Constitution of India, this Court may not interfere in this writ petition. It is also argued that the petitioner has an alternative efficacious remedy of filing an election petition.

5. We have considered the submission made on both sides and have perused the record.

6. The process of election has already commenced and the election schedule is extracted below for the facility of reference:

- a. The 10<sup>th</sup> November, 2023 (Friday), as the last date for making nominations;

- b. The 13<sup>th</sup> November, 2023 (Monday), as the last date for the scrutiny of nominations;
- c. The 15<sup>th</sup> November, 2023 (Wednesday), as the last date for the withdrawal of candidatures;
- d. The 30<sup>th</sup> November, 2023 (Thursday), as the date on which a poll shall, if necessary, be taken;
- e. The 5<sup>th</sup> December, 2023 (Tuesday), as the last date before which the election shall be completed.

7. Article 329(b) of the Constitution of India reads as under:

No election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature.

8. The jurisdiction of this Court to interfere with the process of election once the same has commenced is well defined by a catena of decisions. It is trite law that only when an action of the Returning Officer results in stalling or stoppage of elections, this Court under Article 226 of the Constitution of India can interfere (See **Manda Jagannath**

**v. K.S.Rathnam**<sup>1</sup>). The improper rejection of nomination paper is a ground to file an election petition. The petitioner has the remedy with regard to redressal of her grievance.

9. For the aforementioned reasons, no case for interference at this point of time is made out.

10. In the result, the writ petition fails and is hereby dismissed.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

---

**ALOK ARADHE, CJ**

---

**N.V.SHRAVAN KUMAR, J**

17.11.2023

VS

---

<sup>1</sup> (2004) 7 SCC 492