

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

EP NO.100001/2020

PW.2

WITNESS NAME : Jilani H.Mokashi
FATHER'S NAME : Husenmiya
AGE : 45 YEARS
OCCUPATION : Joint Director of Agriculture
(Vigilance)
RESIDENCE : Belgaum

WITNESS DULY SWORN ON: 28.03.2022

**EXAMINATION-IN-CHIEF: BY SRI CHAITANYA S.G.,
LEARNED COUNSEL FOR THE PETITIONER**

Since March 2018 I am working as Joint Director of Agriculture, Belgaum. In September 2019, I was deputed as a Returning Officer for the Bye elections of Athani 03 Assembly Constituency. Now I see Ex.P1 the election notice in Form No.1. Ex.P1 was issued by me. My signature on Ex.P1 is marked as Ex.P1(a).

2. In that election, I received totally 25 nomination papers. I scrutinized all the nomination papers so received.

Now I see Ex.P3 to Ex.P10. They are the nomination records scrutinized by me. Ex.P11 the return of election form, Ex.P12 the declaration of the returned candidate in the election and Ex.P13 the final result sheet of the election are issued by me.

3. Ex.P18 is the first notification dated 23.09.2019 issued by the Election Commission of India notifying the election. On 27.09.2019 the Election Commission of India issued another notification as per Ex.P19 rescheduling the elections. Prior to the election in question I had the experience of working as the Returning Officer in another election.

4. The election was rescheduled as per the orders of the Election Commission of India. In Column B of Ex.P4(a) the candidate has not filled up Column Nos.3 and 4 with regard to the property measuring 35 acres 29 guntas. He has also not filled up Column Nos.4 to 7 with respect to 8 acres and 8 guntas. I do not remember if Form No.26 shall contain the particulars of the Hindu Undivided Family of the candidate.

Schedule B of Ex.P3 contains a Column meant to declare the particulars of Hindu Undivided Family of the candidate.

5. The Returning Officer is required to examine the nomination papers. But the Returning Officer is not required to examine the particulars mentioned in the affidavit of the candidate submitted along with the nomination paper. During my tenure as Returning Officer, I have acclimatized myself to the provisions of Sections 32 to 36 of the Representation of Peoples Act, 1951.

6. During the scrutiny I did not notice the omission in filling up of Columns in schedule B in Ex.P4(a) with regard to Hindu Undivided Family and details of the spouse and dependant No.1. Similarly, I had not noticed the non-mentioning of the year of completion of educational course of respondent No.1 in Column No.10 in Ex.P4(a).

**CROSS-EXAMINATION: BY SRI G.BALAKRISHNA SHASTRY,
LEARNED COUNSEL FOR RESPONDENT NO.1.**

7. It is true to suggest that while scrutinizing the nomination papers the Returning Officer is not required to

verify the truthfulness or correctness of the statements made in the nomination papers and the affidavit annexed to that.

8. It is true to suggest that bye elections to 15 constituencies under Ex.P19 was to be conducted on account of resignation tendered by the sitting MLAs of those constituencies. I am not aware, if the Hon'ble Speaker of the Assembly rejected the resignations of those MLAs and disqualified them. I have no personal knowledge as to why the elections were rescheduled.

CROSS-EXAMINATION: BY LEARNED COUNSEL FOR R2 TO R7 NIL.

RE-EXAMINATION: NIL

(TYPED TO MY DICTATION IN THE OPEN COURT)

R.O.I.& A.C

**(K.S.MUDAGAL)
JUDGE**