

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.552 OF 2015

Pathan Zafarali Khan s/o Mehmood
Ali Khan

Petitioner

Versus

The State of Maharashtra & others

Respondents

Petitioner present party-in-person

Mr.S.K.Kadam, A.G.P. for Respondents No.1.

Mr.S.T.Shelke, advocate for Respondent No.2.

Mr.M.V.Deshpande, advocate for Respondent No.3.

CORAM : R.M.BORDE &

P.R.BORA, JJ.

DATE : 15th January, 2015

PER COURT:

1 Petitioner presented a writ petition being W.P.No.1158 of 2013 seeking directions to the Election Commission to consider the representation tendered by him on 12.09.2012. The representation relates to formation of wards of Nanded-Waghala City Municipal Corporation, Nanded, for the purposes of holding elections to the Municipal Corporation.

2 According to the petitioner, formation of wards by the State Election Commission is not in conformity with the provisions of the Rules. Since the State Election Commission did not consider objection in respect of formation of wards, petitioner had approached this Court by presenting aforesaid writ petition. It does appear that in the meanwhile, elections to Nanded-Waghala

Municipal Corporation did take place. Taking note of this, the Division Bench of this Court, while disposing of writ petition tendered by the petitioner, by order dated 22.12.2014, directed Respondent No.2 to consider the representation filed by the petitioner on 12.09.2012 and for that purpose, give him opportunity of hearing. Respondent No.2 was directed to consider and decide the representation within a period of three months from the date of the order i.e. 22.12.2014.

3 The petitioner contends that without taking decision on the objection tendered by him in respect of formation of wards, Respondent No.2 has proceeded to take steps for holding bye-elections to Ward No.15B to fill in the vacancy. The petitioner contends that it was not open for Respondent No.2 to proceed to declare elections for filling up the vacancy before taking decision on the objection tendered by him and complying with the directions issued by this Court in aforesaid writ petition on 22.12.2014.

4 The objection tendered by the petitioner relates to formation of wards for the purposes of holding general elections to Nanded-Waghala Municipal Corporation, which were already held in 2012. Since the general elections have taken place, this Court directed the Election Commission to look into the objection tendered by the petitioner and take appropriate decision, which may be relevant for the purposes of conducting next general elections. So far as filling up of casual vacancy, occurred during continuance of tenure, the decision on the application/representation tendered by the petitioner, will have a

little impact. The decision, if any, may be referable to the next general elections. The prayer made by the petitioner, in the instant petition, for prohibiting Respondent No.2 from proceeding with the election programme for filling up the vacancy during continuance of tenure, is devoid of substance.

5 Writ Petition stands dismissed.

P.R.BORA
JUDGE

adb/wp55215

R.M.BORDE
JUDGE