

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

41 WRIT PETITION NO.9463 OF 2015

ANANDRAO MANIKRAO LATHKAR AND OTHERS
VERSUS
THE STATE ELECTION COMMISSION AND OTHERS

...

Advocate for Petitioners : Mr. Veer Shrikant T.
Mr. Shelke Shivaji T., Adv. For R/1
Mr. US Mote, AGP for Respondents: 2 & 3;
Mr. Koli Sunil P, Adv. For R/4

**CORAM : R.M.BORDE &
P.R.BORA, JJ.**

DATE : 12th October, 2015.

PER COURT :

1) Heard. The petitioners are praying for issuance of directions to the respondents to enlist their names in the voters list for holding elections of village panchayat, Osmannagar, Tq. Kandhar District Nanded. The petitioners state that they intend to participate in the process of elections and as such, their names are required to be incorporated in the voters list. It is contended that during the preceding elections, their names did appear in the electoral roll prepared for elections of the concerned village, however, those names appear to have been removed from the provisional as well as

final voters list. The petitioners have also tendered an application to the District Election officer, requesting him for deletion of their names from the voters list of urban area i.e. Nanded Assembly constituency with a view to seek inclusion of their names in the voters list prepared for conducting the election of village panchayat. The petitioners have also tendered an application in the prescribed format and they have been issued a receipt as a token of receipt of the application by the District Election Officer.

2) It is a matter of record that the names of the petitioners have not been incorporated either in the primary voters list or final voters list for elections to the concerned village. The cut-off date for the valid electoral roll was 1st of August, 2015.

3) As per Section 12 of The Bombay Village Panchayats Act, 1958, the electoral roll of the Maharashtra Legislative Assembly prepared under the provisions of the Representation of Peoples Act, 1950 and in force on such day as the State Election Commissioner, may by order, notify in this behalf for

such part of the constituency of the Assembly as is included in a ward or a village, shall be the list of voters for such ward or village.

4) Admittedly, the names of the petitioners did not find place in the electoral roll of the Maharashtra Legislative Assembly prepared for such part of the constituency of the Assembly as is included in a ward or a village on the notified date, and as such, their names have not been included in the voters list. Merely because the process of deletion of their name from the Assembly electoral rolls referable to the urban area which was in force, does not give entitlement to the petitioners to claim inclusion of their names in the voters list even after finalization of the list for a particular village panchayat elections. It is informed that the process of election has reached an advanced stage, as such, no interference is called for.

5) The petitioners place reliance on the judgment of this Court in the matter of Sudhakar Vs. Vithal Misal Vs. State of Maharashtra – 2007 (O) BCI. 434; Anant Janardhan Patil Vs. State of Maharashtra –

2002 (4) Bom.C.R. 270; Surekha Sanjay Kharade Vs. District Deputy Registrar and Ors. - 2012 (4) Bom.C.R. 218; and Adivasi Seva Sahakari Sanstha Vs. Hon'ble Collector and anr. - 2012(1) Bom.C.R. 581,

however, the facts giving rise to the aforesaid judgments are totally different and the ratio laid down therein is not applicable to the facts of the present case.

6) The petition is devoid of substance and hence rejected.

sd/-
(P.R.BORA)
JUDGE

bdv/

sd/-
(R.M.BORDE)
JUDGE