

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

WRIT PETITION NO.9599 OF 2015

Ansari Shakil Pasha s/o Jamil Pasha
Age 36 years, Occ. Business,
R/o Ward No.11, Mantha,
Tal. Mantha, District Jalna ... PETITIONER

VERSUS

1. The Commissioner of Maharashtra
State Election Commission,
(Copy to be served on
Standing Counsel for Election
Commission for State of Maharashtra
at High Court)
2. The Collector,
Jalna.
3. The Nodal Officer/
Sub-Divisional Officer, Partur
(Copy to be served on Govt. Pleader,
High Court, Bench at Aurangabad)
4. The Nagar Panchayat, Mantha,
through its Chief Officer,
Mantha, Tal. Mantha,
District Jalna. ... RESPONDENTS

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Shri P.R. Katneshwarkar, Advocate for petitioner
Shri U.S. Mote, A.G.P. for State
Shri S.T. Shelke, Advocate for respondent No.2
Shri S.D. Hiwrekar, Advocate for respondent No.3
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W I T H

WRIT PETITION NO.9595 OF 2015

Shri Satyanarayan s/o Jaikisan Gilda
Age 45 years, Occ. Business,
R/o Balaji Gally, Badnapur,
Taluka Badnapur, District Jalna ... PETITIONER

VERSUS

1. The State of Maharashtra
through the Secretary,
Rural and Urban Development
Mantralaya, Mumbai
(Copy to be served on it's
Government Pleader, High Court of
Judicature of Bombay,
Bench at Aurangabad.
2. The Maharashtra State Election Commission
through its Commissioner,
First Floor, New Administrative Building,
Hutatma Rajguru Chowk,
Madam Cama Road, Mumbai – 32
(Copy to be served on it's Standing
Counsel, High Court of Judicature of
Bombay, Bench at Aurangabad)
3. The Divisional Commissioner,
Aurangabad Division, Aurangabad.
4. The Collector, Jalna
(The Election Officer)
Main Administrative Building,
Jalna.
- 4A) Sub-Divisional Officer,
Jalna

(Copy to be served on it's
Government Pleader, High Court of

Judicature of Bombay,
Bench at Aurangabad.

5. The Chief Officer,
Nagar Panchayat, Badnapur,
District Jalna.

6. The Administrator,
Nagar Panchayat, Badnapur,
District Jalna.

... RESPONDENTS

.....
Shri S.B. Joshi, Advocate for petitioner
Shri U.S. Mote, A.G.P. for State
Shri S.T. Shelke, Advocate for respondent No.2
.....

CORAM: R.M. BORDE AND
P.R. BORA, JJ.

DATED: 6th October, 2015.

ORAL ORDER :

1. The petitioners are taking exception to the order issued by the Nodal Officer, Sub-Divisional Officer, Partur as well as the Sub-Divisional Officer, Jalna, determining the delimitation of Ward. It is contended that the process has been undertaken by the concerned officer under the delegated powers conferred upon them by the Collector, Jalna. The petitioners, inviting our attention to Section 10(a)(2) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965,

contend that it is for the State Election Officer to pass order to delegate any of its power to any officer of the State Government not below the rank of Deputy Collector or the Chief Officer of the Council.

2. In the instant matter, it is pointed out that, the Collector was delegated the power by the State Election Commission, which have been further delegated to the Sub-Divisional Officers, which according to the petitioner, is impermissible in law. Reliance is placed on the judgment delivered by the Division Bench of this Court in the matter of **Nandkishore s/o Mohanlal Lahoti Vs. State of Maharashtra & ors. reported in 2007(1) ALL MR 103** to contend that further delegation by the Collector of his powers is impermissible. The learned counsel appearing for the State Election Commission, on instructions, states that, the deficiency as pointed out by the petitioner, would be cured by issuing appropriate orders by the State Election Commissioner. It is further pointed out that the process of election has commenced and the stage of acceptance of nomination papers has commenced since 1.10.2015. In view of commencement of the process of election, and on consideration of the bar of interference in electoral matters

contained in Article 243-ZG of the Constitution of India, no interference is called for at this advanced stage of the process of election. Keeping the option of the petitioners to raise challenge at appropriate stage open, Writ Petitions are rejected.

(P.R. BORA, J.)

(R.M. BORDE, J.)

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