

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

WRIT PETITION NO. 10920 OF 2015

Shri Amol s/o Arjunrao Jadhav

.. PETITIONER

VERSUS

The State Election Commission of Maharashtra
& others

.. RESPONDENTS

Mr. M.R. Sonawane, advocate for petitioner.

Mr. P.S. Patil, AGP for the State.

Mr. S.T. Shelke, advocate for respondent no. 1.

Mr. A.G. Ambetkar, advocate for respondent no. 4.

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CORAM : R.M. BORDE &

A.I.S. CHEEMA, JJ.

DATE : 30th NOVEMBER, 2015.

PER COURT :

1. Heard.

2. Petitioner is objecting the order passed by the Collector in respect of formation of wards for the purpose of holding elections to Shevgaon Municipal Council. The primary objection raised by petitioner in respect of issuance of order by the Collector is on the ground that hearing was extended by the Sub-Divisional officer whereas the order has been issued by the District Collector.

3. Relying on the judgment delivered by Division Bench of this court in the matter of Naqndkishore s/o Mohanlal Lahoti Vs. State of Maharashtra and others reported in 2006(6) Mh.L.J. 552, it is urged that the delegatee cannot sub-delegate his powers and, since hearing has been extended by

the Sub-Divisional Officer, it was not open for the Collector to issue order in respect of delimitation of wards. It is further contended that the powers in respect of issuance of orders as regards delimitation of wards have been issued conferred on the Collector by the State Election Commission. The Collector, thus, is not authorised to further delegate the powers in favour of the Sub-Divisional officer and, the Sub-Divisional Officer being the sub-delegatee is not legally empowered to participate in the decision making process by tendering his report to the Collector. Reliance is placed on communication issued by the Collector authorising the Sub-Divisional Officer to conduct hearing in the matter and tender his report.

4. The contentions raised by petitioner have been denied by the State Election Commission. It is stated in affidavit-in-reply that the Sub-Divisional Officer has not decided the objections and the contentions raised in that behalf are not correct. It is, however, stated that there was no sub-delegation of powers by the Collector to the Sub-Divisional Officer. The Sub-Divisional Officer was appointed for supervising the programme regarding ward formation and reservation of wards.

5. The learned counsel for State Election Commission was specifically directed to take instructions as regards averments made by petitioner in respect of delegation of powers in favour of the Sub-Divisional Officer and, as to whether hearing has been extended by the Sub-Divisional Officer in his capacity as Sub-delegatee. Communication dated 30.11.2015 issued by the Sub-Divisional Officer is placed on record and marked 'X' for

identification. It is informed in the communication that hearing has taken place in the office of the Collector and that, the Sub-Divisional Officer has merely assisted the Collector during the course of hearing. It is not disputed that the orders in respect of formation of ward have been issued by the Collector. So far as merits of the contention in respect of formation of wards 9, 10 and 11 are concerned, it has been stated that the wards have been formed taking into consideration the population ratio. The objections raised by petitioner requiring appreciation of facts do not deserve to be gone into in exercise of extra ordinary jurisdiction under Article 226 of the Constitution of India.

6. For the reasons recorded above, petition does not deserve to be entertained and as such, stands rejected.

(A.I.S. CHEEMA)
JUDGE

(R. M. BORDE)
JUDGE

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