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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO. 5167 OF 2015
WITH
CIVIL APPLICATION NO. 1949 OF 2015
(For Intervention)

Shri Anil Shivaji Waghmode

.. Petitioner

Vs.

The Collector, Solapur & Ors.

.. Respondents

Mr. S. S. Aradhye for petitioner.

Mr. P. P. Kakade, AGP for State.

Mr. S. B. Shetye for respondent no.4.

Mrs. Suman Y. Lengare in CAW No. 1949 of 2015.

CORAM: NARESH H. PATIL &
S. B. SHUKRE, JJ.

OCTOBER 09, 2015.

P.C.

1. The petitioner challenges the final notification issued under Section 10 of the Maharashtra Village Panchayat Act, 1958 (for short “ the Act of 1958) and under Rule 5(2) of the Maharashtra Village Panchayats (Number of Members, Divisions Into Wards and Reservation of Seats) Rules, 1966 (for short “the Rules of 1966).. It is submitted that to a draft notification of formation of ward, the petitioner had submitted certain objections bearing Objection No. 35 of 2015. By an order dated 8/2/2015, the Collector had allowed those objections and directed for formation of ward under Rule 3 of the Rules of 1966. The allegation is that instead of

following the said order, the Circle Inspector published a final notification with certain other changes, which the petitioner did not ask for. In that view of the matter, the grievance of the petitioner is that if the authorities wanted to bring more changes, then a further notice, calling objections, ought to have been issued. The final ward formation notification was issued on 14/2/2015.

2. This petition was filed in the month of February, 2015, raising objection to the publication of notification of formation of ward on 14/2/2015.

3. Learned counsel appearing for the State Election Commission submits that the election programme of Gram Panchayat Ozewadi had already been declared. According to the said programme, the nomination will start from 13/10/2015. The learned counsel appearing for intervener supports the submissions of the learned counsel appearing for the State Election Commission. It is submitted by the learned counsel for the State Election Commission that while issuing final notification certain changes were brought in by the Collectorate.

4. The perusal of record shows that though the petition was pending since February 2015, the necessary hearing on the issue raised was delayed and now the position is that the election programme is already declared. Article 243-O of the Constitution of India reads as under:

“243-O. Bar to interference by courts in electoral matters. -
Notwithstanding anything in this Constitution -

- (a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies made or purporting to be made under article 243K, shall not be called in question in any court;
- (b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any Law made by the Legislature of a State.

5. In that view of the matter, it is for the State Election Commission to take appropriate decision.

6. Considering the above stated facts and record, no interference is warranted under extra ordinary writ jurisdiction of this court. Petition is dismissed.

7. In view of the above, Civil Application No. 1949 of 2015 shall stand disposed of.

(S. B. SHUKRE, J.)

(NARESH H. PATIL,J.)