

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.29151 OF 2015

Sundar Sabale.] ... Petitioner
Versus
State of Maharashtra and Ors.] ... Respondents

WITH

WRIT PETITION (STAMP) NO.29152 OF 2015

Bababai Hanmant Sabale.] ... Petitioner
Versus
State of Maharashtra and Ors.] ... Respondents

WITH

WRIT PETITION (STAMP) NO.29153 OF 2015

Ujjwala Sabale.] ... Petitioner
Versus
State of Maharashtra and Ors.] ... Respondents

WITH

WRIT PETITION (STAMP) NO.29154 OF 2015

Vasant Rarajam Chavan] ... Petitioner
Versus
State of Maharashtra and Ors.] ... Respondents

Mr. Shailendra S. Kanitkar for Petitioners in all four Writ Petitions.

CORAM :- M. S. SONAK, J.

DATE :- OCTOBER 21, 2015

P. C. :-

1. **Not on board. Upon mentioning, taken on board.**

2. In these four petitions, the learned Counsel for petitioners states that in view of the urgency involved, the petitioners have not been able to actually lodge the petitions in the Registry. The urgency involved is that the nominations of the petitioners for election to the Village Panchayat have been rejected on 19/10/2015 and the order of rejection was made available only on 20/10/2015. Further, the last date for withdrawal of nominations is scheduled today.

3. In view of the aforesaid circumstances, the petitions tendered by the petitioners are accepted directly by this Court. The same shall be retained by the Sheristedar and the Registry shall number the same.

4. By these petitions, the petitioners challenge the rejection of their nomination papers insofar as elections to the Village Panchayat of Khuneshwar are concerned. Section 15 of The Maharashtra Village Panchayats Act, 1959 ('said Act') provides that if the validity of any election of a member of a *Panchayat* is brought in question by any candidate at such election or by any person qualified to vote at the election to which such question refers, such candidate or person may, at any time within fifteen days after the date of declaration of the result of the elections, apply to the Civil Judge

(Junior Division), having ordinary jurisdiction in the area within which the election has been or should have been held for the determination of such question.

5. Further, Section 15A of the said Act provides that no election to any *Panchayat* shall be called in question except in accordance with the provisions of Section 15; and no Court other than the Judge referred to in that Section shall entertain any dispute in respect of such election. Section 15A of the said Act, in fact, echoes what is provided in Article 243(O) of the Constitution of India which, *inter alia*, provides that 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.

6. No doubt, the learned Counsel for petitioners is right that despite such provision, this Court retains jurisdiction to entertain petition under Article 226 of the Constitution of India. However, considering the circumstance that the election is already underway and actual poll is scheduled on 01/11/2015, it will not be appropriate to exercise discretion and entertain the present petition. Accordingly, the present petitions are not entertained. It is, however, made clear that this Court has not examined the dispute on merits and therefore all contentions of all parties are left open for decision by the appropriate authority if and when any occasion arises for the same.

7. The petitions are disposed of in the aforesaid terms.
8. All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)