

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2794 OF 2015

Tarachand Ramraje Khopade
and Others ...Petitioners

VS.

The State of Maharashtra
and Others

...Respondents

Mr. V.S. Kapse a/w. Mr. S.D. Chavan, for the
Petitioners.

Mrs. M.P. Thakur, AGP for Respondent Nos. 1, 3, 4 & 5.

Mr. S.B. Shetye, for Respondent No.2.

CORAM : A.S. OKA & A.P.BHANGALE, JJ

DATE : 24TH MARCH, 2015.

P.C. :

. Heard learned counsel for the Petitioners as well as the learned counsel representing the second Respondent and learned AGP for the first, third, fourth and fifth Respondents.

2] In this petition under Article 226 of the Constitution of India, the Petitioner has

challenged the order dated 9th February, 2015. The said order has been passed by the Additional Collector, Pune as a nominee of the State Election Commissioner in exercise of powers under sub Rule 2 of Rule 5 of the Bombay Village Panchayats (Number of Members, Divisions into Wards and Reservation of Seats) Rule 1966 (in short "the said Rules").

3] The learned counsel appearing for the second Respondent on instructions states that after making available a copy of the report submitted by the Tahsildar to the Petitioners, the District Collector, Pune shall give hearing to the Petitioners and shall pass a fresh order in accordance with sub Rule 2 of Rule 5 of the said Rules.

4] We accept the said statement made on instructions.

5] We may observe here that in large number of matters, orders under sub Rule 2 of Rule 5 of the said Rules have been passed by the Collectors relying upon the reports of Revenue officers without supplying copies thereof to the objectors. The State Election Commission will have to issue necessary directions to the concerned officers to ensure that the copies of the reports are furnished to the persons raising objections before the objectors are heard by the concerned officer.

6] The learned counsel appearing for the second Respondent states that on 14th March, 2015 the voters list has been finalized. We make it clear that we are not setting aside the exercise done subsequent to order dated 9th February, 2015. However, depending upon the nature of the order which may be passed by the Collector, the State Election Commission will have to take remedial steps.

7] We dispose of the petition by passing following order.

a) The impugned order dated 9th February, 2015 is quashed and set aside;

b) We direct the Petitioners or their representatives to appear before the District Collector, Pune on 31st March, 2015 at 11.00 am;

c) A copy of report of the Tahsildar shall made available by the Collector, Pune to the Petitioner before they are heard;

d) After hearing the petitioners, the District Collector shall pass a fresh order as expeditiously as possible;

e) Apart from the aforesaid directions, subject to what is observed above, the petition is disposed of.

f) All concerned to act on an authenticated copy of the order.

(A.P. BHANGALE, J.)

(A. S. OKA, J.)