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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3243 OF 2012

Vinayak Dattatray Khaire

... Petitioner

Vs.

State Election Commission and Ors.

... Respondents

Mr. Omkar Nagvekar i/by Mr. Makarand Panchakshari, for the Petitioner.

Mr. Sachindra B. Shetye, for the Respondent No.1.

Mrs. M.P. Thakur, AGP, for Respondent Nos.2 and 4.

Ms. Manisha Jagtap i/by M/s. J. Shekhar, for Respondent No.3.

**CORAM : A.S. OKA &
A.K. MENON, JJ.**

DATE : 3rd MARCH, 2015

PC.

. Heard the learned counsel appearing for the Petitioner and the learned counsel appearing for the first Respondent. The case made out in this Petition is that while preparing draft Municipal Electoral Roll for the purpose of general ward election of the Nashik Municipal Corporation, the voters at Sr. No.9137 to 9793 were included in the Ward No.29. However, subsequently in the final electoral roll, the voters at Sr. No.9137 to 9793 were included in the Ward Roll of Ward No.27 at Sr. No.15997 to 16764. The case made out in the Petition is that there is obviously an error and the bonafide voters in Ward No.29 could not

have been transferred to Ward No.27 in the final voters' list. This grievance was made by the Petitioner on 5th March, 2012 by addressing a letter to the first Respondent. The grievance in the Petition is that the first Respondent has not looked into the grievance.

2. The learned counsel appearing for the first Respondent on instructions states that the Petitioner contested election held on 16th February, 2012 from Ward No.29 and his real brother contested election from Ward No.27 and both of them have been elected. He states that for the next general ward election or for that matter if an occasion arises for holding an election in Ward Nos.27 and 29 earlier, the preparation of fresh election roll will have to be made in terms of Section 7(A) of the Maharashtra Municipal Corporations Act, 1949 on the basis of assembly roll for the time being in force. Therefore, his submission is that even assuming that the Petitioner is right, there is no prejudice to anyone.

3. It is true that for the next general ward election or for by-election, if occasion for holding the same arises, fresh electoral roll will have to be prepared on the basis of the assembly roll for the time being in force. Nevertheless, if the case of the Petitioner is that there is an error while preparing final voters' list, the said case will have to be

looked into by the first Respondent – State Election Commission.

Accordingly, we dispose of the Petition by passing the following order :-

ORDER

- (i) We direct the first Respondent to look into the representation dated 5th March, 2012 made by the Petitioner and to take appropriate decision thereon within a period of four months from today;
- (ii) The decision shall be communicated to the Petitioner;
- (iii) The Petition is disposed of on above terms;
- (iv) All contentions on merits are kept open.

(A.K. MENON, J)

(A.S.OKA, J)