

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10572 OF 2015

Shri Satish Dagadu Shelke.] ... Petitioner

Versus

Shri Kashinath Bhimrao Kakade and Ors.] ... Respondents

Mr. S. S. Aradhya for Petitioner.

Mr. A. R. Metkari, A.G.P., for Respondent Nos.3 and 4.

CORAM :- M. S. SONAK, J.

DATE :- OCTOBER 21, 2015

P. C. :-

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

2. The challenge in this petition is to the order dated 19/10/2015 by which the Returning Officer has rejected the petitioner's objections for acceptance of nomination of respondent nos.1 and 2 insofar as elections to the Village *Panchayat* of Sawadi 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. The provisions contained in Section 15 of the said Act are quite wide and would admit a dispute as to whether the nomination of the respondents was validly accepted, assuming that the respondents on the basis of such nomination, get elected as Members of the *Panchayat*.

3. 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.

4. No doubt, the learned Counsel for petitioner 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 petition is 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.

5. The petition is disposed of in the aforesaid terms.
6. All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)