

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Writ Petition No. 7367 of 2011

District : Osmanabad

Shri Dhananjay Himmatrao Londhe,

Age : - ,

Occupation : - ,

Resident of : Tuljapur,

Taluka : Tuljapur,

District : Osmanabad.

.. Petitioner.

versus

1. The State of Maharashtra,
Through the Department of
Urban Development,
Mantralaya, Mumbai - 32.
2. The Divisional Commissioner,
Aurangabad Division,
Aurangabad.
3. The Collector,
Osmanabad,
District : Osmanabad.
4. The State Election Commission
Of Maharashtra,
Through the Election Commissioner,
New Administrative Building,
Madam Kama Road, Mumbai 32.
5. The Chief Officer,
Tuljapur Municipal Council,
Tuljapur, Taluka : Tuljapur,
District : Osmanabad.
6. The Tuljapur Municipal Council,
Through its Chief Officer,

Tuljapur, Taluka : Tuljapur,
District : Osmanabad.

.. Respondents.

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Mr. Mukul S. Kulkarni, Advocate, for the petitioner.

*Mr. A.M. Phule, Asst. Government Pleader, for
respondent nos.1 to 3.*

Mr. S.T. Shelke, Advocate, for respondent no.4.

Mr. K.K. Kulkarni, Advocate, for respondent no.6.

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**CORAM : S.V. GANGAPURWALA &
A.M. BADAR, JJ.**

DATE : 11TH FEBRUARY 2016

COURT'S ORDER (Per S.V. Gangapurwala, J.) :

1. Mr. Kulkarni, the learned Counsel for the petitioner, submits that under the Maharashtra Municipal Councils, Nagar Panchayats & Industrial Township Act 1965, more particularly Section 10A, the State Election Commission has got powers of delegation. Pursuant to the said powers, order is issued by the State Election Commission on 3rd May 2005, thereby delegating powers to the respective Collectors in respect of Municipal Councils to prepare the ward formation. In the present case, the Collector has sub-delegated the powers to the Chief Officer of Municipal Council which is not permissible in law. The statute itself does not provide for the same. A delegatee cannot sub-delegate the powers.

2. The learned Counsel for the petitioner further submits that even as per the order dated 3rd May 2005, the Collector has to prepare a draft notification and the same has to be forwarded to the Commissioner for sanction. The same is also not sanctioned by the Commissioner in the present case.

3. We have also heard the learned Counsel for respondents.

4. The ward formation in respect of elections held in the year 2011 is the subject matter. The term of the said election is to come to an end after six years only. As such, we are not entering into the merits of the contention. The said contention would only remain academic. We may hasten to observe that the respondents are bound to adhere to the order dated 3rd May 2005 while submitting proposal of ward formation, draft notification and sanction of the said draft notification by the authorities as laid down in the order dated 3rd May 2005.

5. With these observations, the Writ Petition is disposed of. Rule is discharged. No costs.

(A.M. BADAR)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

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