

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

WRIT PETITION NO.10761 OF 2016

Suraj s/o. Mulchand Chavariya,
Age : 41 years, Occ. Business,
R/o.4-416-1, Mehtar Colony,
Bhusawal, Tq. Bhusawal,
Dist. Jalgaon
and others

..Petitioners

Vs.

The State of Maharashtra,
Through its Principal Secretary,
Urban Development Department,
Mantralaya, Mumbai
and others

..Respondents

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Mr.R.S.Deshmukh, Advocate for petitioners
Mr.S.J.Salgare, AGP for respondent nos.1, 3 to 6
Mr.S.T.Shelke, Advocate for respondent no.2
Mr.G.V.Wani, Advocate for respondent no.7

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**CORAM : R.M. BORDE AND
SANGITRAO S. PATIL, JJ.
DATE : NOVEMBER 24, 2016**

PER COURT :

Heard.

2. The petitioners are praying for issuance of directions to the respondents to incorporate their names in the voters' list prepared for

Bhusawal Municipal Council general elections to be held in the month of November, 2016.

3. According to the petitioners, their names did appear in the Voters' list prepared for Legislative Assembly, Bhusawal Constituency and in the past, they were permitted to exercise their right to vote. According to the petitioners, with a *mala fide* intention, the names of voters belonging a particular community have been deleted *en-masse*. The petitioners contend that they tendered their objection to the Returning Officer in respect of deletion of their names from the Voters' list, however, the objection has not been considered and their names are not incorporated in the Voters' list and therefore, they would be loosing their right to cast vote.

4. The learned Counsel for respondent no.2 – the State Election Commissioner submits that the State Election Commission has prescribed

10.09.2016 as the cut-off date for enlistment of the names of the voters in the Legislative Constituency. The Voters' list of the Legislative Constituency is required to be considered for preparation of the ward-wise list of Municipal Council. In order to enroll the names of the voters in the ward-wise voters' list prepared for the elections of the Municipal Council, appearance of the names of the voters in the Legislative Assembly Constituency's voters' list is a pre-requisite. According to the learned Counsel for respondent no.2, the names of the petitioners did not appear in the voters' list prepared for the Legislative Assembly Constituency on the cut-off date i.e. 10.09.2016 and therefore, the names of the petitioners cannot be permitted to be incorporated in the voters' list prepared for the purpose of election of Municipal Council.

5. The learned Counsel for the petitioners controvert the contentions of learned Counsel for

respondent no.2 and submits that that the names of the petitioners did appear in the Voters' list prepared for State Legislative Assembly Elections and as such, deletion of the names of voters en-masse belonging to a community shall have to be viewed seriously.

6. As per the programme of elections prepared by the State Election Commission for Municipal Council general elections, the voting is prescribed on 27.11.2016. Considering the advance stage of process of elections, interference at this stage, in exercise of extra-ordinary jurisdiction under Article 226 of the Constitution of India would not be prudent.

7. Keeping the option of the petitioners to avail of the remedy available under the law open, the instant Writ Petition stands disposed of.

[SANGITRAO S. PATIL, J.]

[R.M. BORDE, J.]

kbp