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

**CRIMINAL APPLICATION NO. 6259 OF 2016**
**IN**
**CRIMINAL WRIT PETITION NO.1461 OF 2016**

Sharad s/o. Vitthalrao Munde,
Age 39 Years, Occu. Agri. & Social Work,
R/o. Sharda Nagar, Parali [Vaijnath],
Tal. Parli [Vaijnath], Dist. Beed. **APPLICANT**

**VERSUS**

1. The State of Maharashtra
   Through Secretary,
   Home Department,
   Mantralaya, Mumbai.

2. The Divisional Commissioner,
   Aurangabad.

3. The Superintendent of Police,
   Beed, District Beed.

4. The Sub-Divisional Officer,
   Parali [Vaijnath], Tal.Parali [Vaijnath]
   District Beed.

5. The Police Inspector,
   Police Station, Parali [City],
   Tal.Parali [Vaijnath], Dist.Beed.

**RESPONDENTS**

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Mr.S.S.Thombre, Advocate for the applicant
Mr.S.G.Karlekar, APP for Respondent – State

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**CORAM: S.S.SHINDE &**
**K.K.SONAWANE,JJ.**
**Date: 22.11.2016**

**PER COURT:**

1. The applicant herein is petitioner in Criminal Writ Petition No.1461/2016. The said Criminal Writ Petition is filed taking exception to the order dated 21st September, 2016 passed by respondent no.4 in File No. 2016/MAG/ Externment/CR-01 and also the order dated 9th November, 2016 passed by the Appellate Authority in Appeal No.125/2016. The said Criminal Writ Petition was heard by this Court on 16th November, 2016 and the notices are issued to the respondents, which are made returnable on 1st December, 2016.

2. This Criminal Application is filed with a prayer to permit the applicant to enter Parali [Vaijnath], Taluka Parali [Vaijnath], District Beed, for the period of 10 days on the ground that the applicant has filed nomination to contest the election for the post of councillor, and the elections are

scheduled to be held on 27th November, 2016, and therefore the applicant may be allowed / permitted to enter Parali [Vaijnath] City, so as to participate in the election process. The applicant has placed on record copy of the election programme and also the list of valid contesting candidates from ward No.16-B from which ward the applicant is contesting the election for the post of Councillor.

3. The learned counsel appearing for the applicant submits that the applicant is an elected councillor for the said constituency for the period from 2011 to 2016, and his valuable right to participate in the election process and campaigning amongst the voters in support of his candidature, is taken away by the order of externment impugned in the Writ Petition, which is tainted with the political *mala fide,* and therefore, in the interest of justice the applicant may be allowed to enter

Parali [Vaijnath] for 10 days.

4. On the other hand, the learned APP appearing for the respondent – State on the basis of the report, which he has received from the Police Station Parali [Vaijnath], submits that, in case the applicant is permitted to enter the Parali [Vaijnath] town, in that case there may be possibility of creation of serious law and order problem. Therefore, he submits that, the application filed by the applicant may be rejected.

5. We have given due consideration to the rival submissions of the learned counsel appearing for the parties. With the assistance of the learned counsel appearing for the applicant and the learned APP appearing for the respondent – State, we have carefully perused the averments in the application, annexures thereto and we are of the opinion that, since the applicant is

contesting candidate for the post of Councillor of Municipal Council, Parli [Vaijnath], in the interest of justice so as to contest the said election in fair manner, the applicant deserves to be permitted to enter Parali [Vaijnath] City on certain conditions. Hence the following order:

**ORDER**

i] The respondents are directed to permit the applicant to enter temporarily for the period from 23rd November, 2016 [in the after noon] till 27th November, 2016 till 8.00 p.m., on the condition that the applicant shall report Parali City Police Station in between 10.00 a.m. to 10.30 a.m. and also in the afternoon at 3.30 p.m. and evening at 8.30 p.m. on every day.

ii] During his stay for the aforesaid period, the applicant shall not possess

any kind of weapon and also ensure that his close supporters involved in election campaign are not possessed any kind of weapon, and would not create any law and order problem. It is needless to observe that the applicant shall not indulge in the activity / activities which will cause law and order problem.

iii] On expiry of aforesaid period, the applicant shall give intimation in writing to the Incharge Officer, Parali [Vaijnath] City Police Station to the effect that, he is leaving the city.

iv] The Criminal Application is partly allowed, and the same stand disposed of.

v] Parties to act upon authenticated copy of this order.

**[K.K.SONAWANE]**
**JUDGE**

**[S.S.SHINDE]**
**JUDGE**

DDC