

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

CRIMINAL WRIT PETITION NO.1506 OF 2016

Samir @ Dhoni Krushndhan Kar,
Age: 40 Years, Occu: Business,
R/o. 15 Bunglow, Varangaon road,
Bhusawal, Tq. Bhusawal,
Dist. Jalgaon.

PETITIONER

VERSUS

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

2. Superintendent of Police
Jalgaon, Dist. Jalgaon

RESPONDENTS

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Mr.Girish V. Wani, Advocate for the
petitioner

Mr.S.Y.Mahajan, Addl.P.P.for Respondent –
State

...

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

Date: 24.11.2016

PER COURT:

1. This Writ Petition is filed with the
following prayers:

(B) Be please to direct the Divisional
Commissioner Nashik Division Nashik

to hear the appeal pending before him as expeditiously as possible.

(C) Be please to quash and set aside the order dated 15/11/2016 passed by the learned Sub Divisional Officer Bhusawal Dist. Jalgaon.

2. By way of amendment, the petitioner has also prayed that, the petitioner may kindly be permitted to enter Bhusawal City for the ensuing election of Municipal Council Bhusawal scheduled to be held on 27th November, 2016.

3. It appears that, during the pendency of the present Criminal Writ Petition, the application filed by the petitioner before the Appellate Authority with a prayer to permit the petitioner to enter Bhusawal City for the ensuing election of Municipal Council Bhusawal scheduled to be held on 27th November, 2016 has been rejected.

4. The petitioner has already preferred an appeal, challenging the order dated 15th November, 2016, passed by the Sub-Divisional Officer, Bhusawal, District Jalgaon and the same is pending for final adjudication. Since the order passed by the Sub-Divisional Officer, Bhusawal, is under scrutiny of the Appellate Authority, the question of entertaining the prayer clause-C does not arise.

5. So far prayer clause-B is concerned, since the matter relates to the externment proceedings, we deem it appropriate to direct the Divisional Commissioner, Nashik Division, Nashik to hear the pending appeal and decide the same as expeditiously as possible, however, within four weeks from today.

6. Prayer of the petitioner to permit him to enter the Bhusawal City, is on the ground that the petitioner is an active

politician inasmuch as he was elected as a councillor of Bhusawal Municipal Council in the past. His brother's wife is now contesting the election for the post of councillor from ward No.12. The petitioner wishes to campaign for her and also desirous to cast his vote during ensuing election of Municipal Council Bhusawal scheduled to be held on 27th November, 2016.

7. Prayer of the petitioner is vehemently opposed by the learned APP appearing for the respondent – State. He submits that, the Sub-Divisional Officer has passed the detailed order supported by the reasons, and therefore, the prayer of the petitioner to permit him to enter the Bhusawal City may create law and order problem, and therefore, the petitioner's prayer may not be acceded to.

8. We have considered the submissions

of the learned counsel appearing for the petitioner and the learned APP appearing for the respondent – State. With their able assistance, we have perused the pleadings in the petition and annexures thereto. The statement made by the petitioner that the petitioner's name is included in the voters list for the election of the Municipal Council Bhusawal is not disputed.

9. During the course of hearing, the learned counsel appearing for the petitioner, on instructions, assures this Court that, in case the petitioner is permitted to enter Bhusawal City, petitioner undertakes not to create situation which would cause hindrance in maintaining law and order and also he will report to the Bazar Peth Police Station, Bhusawal twice in a day. The learned counsel appearing for the petitioner, on instructions, further submits that, in case the petitioner is permitted to enter Bhusawal

City, he will not possess any weapon with him or will not indulge in any unlawful activities. Though we are not much convinced by the argument of the learned counsel appearing for the petitioner that the petitioner wishes to involve in the campaign to convince the voter to cast vote in favour of the wife of his brother, who is contesting the election from Ward No.12 for the Bhusawal Municipal Council, nevertheless the petitioner is a voter, and therefore, in the interest of justice and in the light of the undertaking given by the petitioner through his Advocate, we are incline to permit/allow the petitioner to enter Bhusawal City from 25th November, 2016 [in the after noon] till 27th November, 2016 up to 8.00.

10. In the light of discussion in the foregoing paragraphs, we pass the following order:

ORDER

- i] The respondents are directed to permit the applicant to enter temporarily for the period from 25th November, 2016 [in the after noon] till 27th November, 2016 till 8.00 p.m., on the condition that the applicant shall report Bazar Peth Police Station between 10.00 a.m. to 10.30 a.m. and evening at 8.00 to 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 would not create any law and order problem.
- iii] On expiry of aforesaid period, the applicant shall give intimation in writing to the Incharge Officer, Bazar Peth Police Station, Bhusawal to the effect that, he is leaving the city.

iv] The Divisional Commissioner, Nashik Division, Nashik i.e. Appellate Authority is directed to hear and disposed of the pending appeal as expeditiously as possible, however, on or before 23rd December, 2016.

v] The Criminal Writ Petition is partly allowed, and the same stand disposed of.

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

Sd/-

[K.K.SONAWANE]
JUDGE

Sd/-

[S.S.SHINDE]
JUDGE