

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.5165 of 2016

(Shri Madhukar s/o Sampatrao Patil v. The Election Officer for holding elections
of the Executive Committee of The Bezangagh Pragatisheel Kamgar Griha Nirman
Sahakari Sanstha Maryadit, Nagpur and others)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's order

Court's or Judge's orders

Shri A.M. Ghare, Advocate for Petitioner.
Shri S.K. Tambde, Advocate for Respondent No.2.
Ms Geeta Tiwari, AGP for Respondent Nos.3 and 4.

Coram : R.K. Deshpande, J.

Date : 20th September, 2016

According to Shri Ghare, the learned counsel for the petitioner, the election can be held only from 720 validly enrolled members of the Society. Further, according to him, as per the amendment to the bye-laws, brought into force with effect from 21-3-2014 [Clause 17(C), Note-3], the only plot holders are entitled to vote in the election. According to him, there are about 2,133 voters, who are not the plot holders, but permitted to vote in the election. He, therefore, submits that the electoral roll need to be set aside.

In view of the recent decision of the Division Bench of this Court in the case of *Pandurang Laxman Kadam and Ors. v. State of Maharashtra and Ors.*, reported in 2016(1) ABR 336; and the decision of the Apex Court in the case of *Shaji K. Joseph v. V. Viswanath and Ors.*, reported in 2016(4) SCC 429, it is not possible to interfere in the process of election at this stage. Any interference at this stage would

prejudice the rights of the other 2,133 persons, who are held entitled to vote in the election, and who had already voted in the last election of the Society held in the year 2007.

Shri Ghare for the petitioner has relied upon the decisions of the Apex Court in the cases of *Ahmednagar Zilla S.D.V. & P. Sangh Ltd. and another v. State of Maharashtra and others*, reported in (2004) 1 SCC 133; and *Pundlik v. State of Maharashtra and others*, reported in (2005) 7 SCC 181; and the decisions of this Court in the cases of *Sau. Minakshi Murlidhar Chodke and Ors. v. The Additional Commissioner*, reported in 1996(4) ALL MR 532, in support of his contention that in the facts and circumstances of the present case, the bar to interfere the writ petition under Article 226 of the Constitution of India shall not apply. In the facts and circumstances of the present case, and for the reasons stated above, I do not find any reason to interfere in the process of election at this stage.

The petition is dismissed.

Judge.

CERTIFICATE

"I certify that this Order uploaded is a true and correct copy of original signed Order."

Uploaded by :
P.D. Lanjewar, PS

Uploaded on : 26-9-2016