

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

WRIT PETITION NO. 4359 OF 2017

**POONAM SANDEEP GHONGADE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioners : Mr. V D Sapkal
AGP for Respondents 1, 3 to 5 : Mrs. M.A.Deshpande
Adv. For respondent no.2 : Mr. S.T.Shelke
Adv. For respondent no.6 : Mrs. Renuka Palve-Ghule

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CORAM : R.M.BORDE AND K.L.WADANE, JJ.

DATED : 3rd APRIL, 2017

O R D E R :

Rule. Rule is made returnable forthwith.
With the consent of the learned counsel for the parties, petition is taken up for final hearing at the admission stage.

2. The petitioner is praying for issuance of directions to respondent no. 6 to correct the voters list and include the name of the petitioner in the voters list for the elections of Newasa Nagar Panchayat in view of the directions issued by the Electoral Registering Officer on 21.1.2017.

3. The petitioner tendered an application seeking inclusion of her name in the voters list for Newasa Legislative Assembly Constituency prior to 1.1.2017. Though the application of the petitioner was considered and her name was included in the voters list, however, inclusion of her name was in rural area i.e. Block No. 33 village Khopti instead of Block No. 41 Newasa Khurd. The petitioner is resident of Madhameshwar Block No. 41 and had recorded the details accordingly while tendering application for inclusion of her name in the voters list, however, her name was erroneously included in Block No. 33 instead of Block No. 41. This mistake was noticed by the petitioner after publication of Newasa Legislative Assembly Electoral rolls as on 1.1.2017. The petitioner immediately moved an application to the Electoral Registering Officer seeking correction of the mistake. The Electoral Registering Officer after considering the report of the Block Level Officer directed correction of the mistake and inclusion of the

name of the petitioner in Block No. 41. The name of the petitioner thus appears in the voters list prepared for Newasa Legislative Assembly Constituency in Block No. 41 which falls within the urban area. The petitioner was surprised on noticing that her name does not appear in the provisional voters list prepared for Newasa Nagar Panchayat elections.

4. The petitioner, as such, moved an application raising objection within the stipulated period for correction of the mistake and inclusion of her name in Block No.41. The application was tendered by the petitioner has been turned down without assigning proper reason. The petitioner contends that since her name appears in the voters list of Newasa Legislative Assembly Constituency and more particularly Block No. 41 which is an urban area, her name ought to appear in voters list prepared for the elections of Newasa Nagar Panchayat.

5. Section 11 of the Maharashtra Municipal Councils Nagar Panchayats and Industrial Townships Act, 1965 (for short, 'the Act') prescribes that the electoral roll of the Maharashtra Legislative Assembly prepared under the provisions of the Representation of the People Act, 1950, for the time being in force, on such date as the State Election Commissioner may, by general or special order notify, shall be divided by the State Election Commissioner into different sections corresponding to different wards in the municipal area; and a printed copy of each section of the roll so divided and authenticated by the State Election Commissioner or an officer authorised by him, shall be the list of voters for each ward.

6. Sub-section 2 of Section 12 of the Act provides that, the list of voters maintained under Section 11 shall be conclusive evidence for the purpose of determining under said Section whether a person is qualified or is not qualified to vote, as the case may be, at any election.

Sub-section 1 of Section 12 of the Act provides that, every person whose name is recorded in the voters list maintained under Section 11 shall be qualified to vote, and every person whose name is not in such list shall not be qualified to vote.

7. In the instant matter, the name of petitioner does appear in the electoral rolls of Newasa Legislative Assembly Constituency and the name also does appear prior to the notified date prescribed by the State Election Commissioner, and as such, it was mandatory to incorporate her name in the voters list prepared for the elections of Newasa Nagar Panchayat.

8. Respondent no.6 has erroneously turned down the objection raised by the petitioner and has committed material irregularity. The order passed by respondent no. 6 rejecting the request of the petitioner to incorporate her name in the voters list deserves to be quashed and set aside

and same is accordingly quashed and set aside. Respondent no. 6 is directed to include the name of the petitioner in the electoral rolls for the elections to Newasa Nagar Panchayat forthwith.

9. Rule is accordingly made absolute. In the circumstances, there shall be no order as to costs.

(K.L.WADANE, J.)

(R.M.BORDE, J.)

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