

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10192 OF 2017

Abhijeet Arun Kapse

...Petitioner

Versus

The State Of Maharashtra And Ors.

...Respondents

Mr. Samir Kumbhakoni for the Petitioner.

Mr.S.D. Rayrikar, AGP for Respondent- State.

CORAM : M. S. SONAK, J.

DATE : 14th SEPTEMBER 2017

P.C.

1. Heard Mr.Samir Kumbhakoni for the petitioner.

2. The challenge in this petition is to the orders dated 30th August 2017 made by the Additional Electoral Registration Officer and Mr.Kumbhakoni as the preparation of the electoral roll, on the basis of which, the election to the village panchayat are scheduled to be held on 14th or 15th October 2015. Mr.Kumbhakoni submits that the election schedule is going to be declared today itself i.e. on 14th September 2017.

3. From the perusal of the impugned orders, it appears that the deletion of names of some of the voters has been ordered on the basis of the grievances petitioners raised. However, objections as regards certain other voters has been overruled and those names, are ordered to be retained in the voters list. Mr.Kumbhakoni

submits that the petitioner had produced evidence, which was, according to him, not even disputed and on the basis of the such evidence, necessary deletion were required to be ordered. He submits that otherwise names of the certain voters will be appearing in two voters list, which is contrary to the provisions of the law. Mr.Kumbhakoni submits that notwithstanding the orders of deletion, the names of the voters continue in the electoral roll. He submits that the electoral roll is a foundation of a free and fair election and therefore, this Court need to interfere with the impugned orders and direct the correction in the electoral rolls as proposed by the petitioner.

4. According to the petitioners own say, the elections are eminent. At this stage, it is not possible to interfere with the impugned orders or for that matter direct any alterations to the electoral roll because, any such direction is bound to impact the election process which has to be completed within a specified period. It is common knowledge that the terms of various panchayats are coming to an end and the election process has therefore to be concluded with utmost dispatch. The issues raised by the petitioner involve investigation into disputed questions of fact. The authorities have examined the petitioner's objection and even upheld some of the objections. The decision in the case of ***Vinod Krushnaraoji Wankhade V/s. Collector***¹ turns on its peculiar facts. Even in the said decision, there is reference to the decision of the Hon'ble Supreme Court in the case of ***Shri.Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak***

¹ 2006(6) Bom. C.R. 631

*Sanstha and Another V/s. State of Maharashtra and Others*¹ in which, the Hon'ble Supreme Court, has held the preparation of the electoral roll is an intermediate stage in the process of Election and once Election process is set in motion, High Court under Article 226 of the Constitution should not stay the continuation of election process even though there may be some illegalities or breaches of Rules in the preparation of the electoral rolls.

5. This petition accordingly, is not entertained. Leaving it open, however to the petitioners to resort to such remedies as may be available under the law to redress his grievances upon completion of election process. There shall however be no order as to costs.

(M. S. SONAK, J.)

1 2002(1) Mh.L.J.-659