

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

WRIT PETITION NO. 949 OF 2018

Vishal S/o Vikramrao Andhale & Anr. ... Petitioners

VERSUS

The State Election Commission of Maharashtra
through the Chief Election Commissioner & Ors. ... Respondents

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Mr V. D. Hon, Sr. Counsel i/b A. V. Hon, Advocate for the petitioners
Mr Shivaji T. Shelke, Advocate for respondent No. 1
Mr S. R. Zambare, Advocate for caveator.
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WITH
CIVIL APPLICATION ST. NO. 3218 OF 2018
IN
WRIT PETITION NO. 949 OF 2018

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 30TH JANUARY, 2018.

ORDER:

1. Mr Hon, the learned Sr. Counsel for the petitioners submits that, the draft ward formation was done and some objections were received. The authority without considering the exact population changed the ward formation. This was only to suit the objectors as some of the voters of the Ward No. 2 were transferred to Ward No. 3. According to the learned Sr. counsel, all this was done to favour the objectors. According to the learned Sr. counsel, there would be lot of

disparity in the number of voters. In Ward No. 2, the voters would be only 564 and three members are to be elected. Whereas, in Ward No. 4, there would be 566 voters and only two members are to be elected. The purity of election has to be maintained. This court in its plenary powers may set aside such a ward formation. The ld. Sr. advocate relies on the judgment in a case of **Digvijay Mote Versus Union of India and others** reported in **1993(4) SCC 175**.

2. Mr. Shelke, the learned counsel for respondent No. 1, submits that after the draft notification was published, objections were invited. The objections were considered, spot inspection was done and thereafter, the corrective steps were taken. The earlier draft notification of the wards was on the basis of Google map and after making spot inspection, the state of affair has been corrected.

3. We have considered the submissions advanced by respective parties.

4. There cannot be any dispute that the purity of election has to be maintained. The election has to be conducted in a free and fair manner.

5. The wards are to be formed on the basis of the population and not on the basis of number of voters. The final notification has been published. Naturally the topography is also required to be considered while forming the wards. The boundaries of the respective wards are given. After considering the objections and the spot inspection, the wards are formed.

6. It is not the case of the petitioner that the ward formation is not on the basis of the population. The basis of the population has been maintained.

7. There is no procedural irregularity or illegality pointed out in formation of wards by filing application.

8. In light of that, no case for interference is made out. Writ Petition is dismissed.

9. In view of disposal of writ petition, nothing survives for consideration in the connected Civil Application and same stands disposed of.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE