

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

WRIT PETITION NO. 6128 OF 2018

Narsing Vishwasrao Nayak
Age: Major, Occu: Agri & Social Service
R/o. Risala Bazar, Hingoli,
Tal & Dist: Hingoli.

...Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai - 32 .
2. The State Election Commission,
Through its Principal Officer/Secretary,
Mumbai
3. The Commissioner,
Revenue Division,
Aurangabad
4. The Collector, Hingoli
5. The Collector, Parbhani.
6. Mr.Prashant Khedekar
Sub Divisional Officer, Kalamnuri,
And Incharge S.D.O. Kalamnuri,
Tal: Hingoli, Dist. Hingoli.
7. Mr.Khuda Bax Tadv,
Assistant Collector (EGS) Hingoli.
8. Shri Gajanan Shinde,
Tahasildar, Hingoli.
9. Police Station Officer,
Hingoli City Police Station, Hingoli,
Dist. Hingoli.

...Respondents

Mr. R.R. Sancheti, Advocate for Petitioner
Mr. P.K. Lakhotiya, AGP for Respondents-State

**CORAM : R. M. BORDE &
A. M. DHAVAL, JJ.**

DATE : 20th JUNE, 2018.

PER COURT:-

1. The petitioner is seeking direction to respondent No.3 to appoint an independent officer to hold inquiry against the alleged misconduct of respondent Nos. 6 to 9 at the election booth No.5-Hingoli. On 21.05.2018, the petitioner tendered a complaint to the State Election Commission in that regard.

2. It does appear that the petitioner is served with externment order and a restraint has been clamped on his entry in Hingoli District. It appears that prohibition imposed by the externing authority was relaxed up to 15.05.2018. The election to the legislative council was scheduled to be held on 21.05.2018. Since there was no communication in respect of the continuation of stay, the Sub Divisional Officer, Hingoli, tendered a report in that regard to the concerned authority informing that the petitioner is trying to interfere in the election process illegally.

3. It is the contention of the petitioner that the order of stay which was to expire on 15.05.2018, had been extended upto 05.06.2018. Petitioner has contended that he has been wrongfully

restrained from exercising of his right to vote. It is further contended that respondent No.6 – Election Officer was assigned electoral duty at Kalamnuri, and as such, he did not have any reason to cause interference in the electoral process at Hingoli booth and create impediment in exercise of right by the petitioner to cast vote.

4. The petitioner has already lodged a complaint to the Election Commission in respect of alleged misconduct of respondent Nos.6 to 9, and since it is within exclusive domain of the State Election Commission to enquire into the factual aspects and pass appropriate orders, it would not be appropriate for this court to cause interference. In view of the constitutional bar contained in Article 329, the elections to either of the Houses cannot be called in question except by way of presentation of election petition. The Representation of Peoples Act provides for remedy of election petition which can be availed of after completion of process of election. We, therefore, refrain from causing any interference in exercise of powers under Article 226 of the Constitution of India.

5. In view of the above, no interference is called for. The writ petition is accordingly dismissed.

[A. M. DHAVALA]
JUDGE

[R. M. BORDE]
JUDGE

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