

(1)

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

WRIT PETITION NO.10170 OF 2017

Pathan Zafar Ali Khan s/o Mahemood Ali Khan,
Age: 74 years, Occu: Pensioner,
R/o. Madina Nagar, Nanded,
Tq. & Dist. Nanded

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Secretary,
Urban Development Department,
Mantralaya, Mumbai

2. The State Election Commission of Maharashtra,
Through their Standing Counsel

..RESPONDENTS

Mr S. S. Kazi, Advocate for petitioner;
Smt. G. L. Deshpande, A.G.P. for respondent No.1;
Mr S. T. Shelke, Advocate for respondent No.2

**WITH
WRIT PETITION NO.10169 OF 2017**

Pathan Zafar Ali Khan s/o Mahemood Ali Khan,
Age: 74 years, Occu: Pensioner,
R/o. Madina Nagar, Nanded,
Tq. & Dist. Nanded

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Chief Secretary,
Mantralaya, Mumbai-32

2. Principal Secretary of Urban
Development Department,
Mantralaya, Mumbai

3. The State Election Commission
of Maharashtra,
Through their Standing Counsel

..RESPONDENTS

(2)

Petitioner : party in person

Smt. G. L. Deshpande, A.G.P. for respondent Nos.1 & 2;

Mr S. T. Shelke, Advocate for respondent No.3

**CORAM : PRASANNA B. VARALE
AND
MANGESH S. PATIL, JJ.**

DATE : 4th December, 2018

ORAL ORDER:

Writ Petition No.10170 of 2017 is filed by Pathan Zafar Ali Khan s/o Mahemood Ali Khan, and Writ Petition No.10169 is also filed by him. In Writ Petition No.10170 of 2017, the petitioner chose to engage a Counsel on his behalf to represent him in the petition, whereas Writ Petition No.10169 of 2017 is being prosecuted by the petitioner himself as a party in person.

2. In Writ Petition No.10170 of 2017, the basic prayers are prayer clauses (B), (C), (D) and (E) and in Writ Petition No.10169 of 2017, the basic prayer is prayer clause (B) wherein a challenge is raised to an amended provisions and the same reads thus:

“The amendment in Section 5 (3) of the Maharashtra Municipal Corporation Act, 1949 effected by Maharashtra Ordinance No.IX/2016 dated 19/05/2016 may kindly be declared as null, void and unconstitutional.”

3. Insofar as Writ Petition No.10170 of 2017 is concerned, as referred above the challenge was raised to the general election scheduled in the year

(3)

2017 and the formation of wards in Nanded-Waghala City Municipal Corporation, Nanded. It was submitted before us that as per the scheduled programme of elections, the election were conducted long back and results are also declared. Thus, what remains now is only an academic issue for consideration. As the substantive petition i.e. Writ Petition No.10170 of 2017 was for reasoned grievance in the formation of wards itself and now as the matter had travelled much beyond the scope of formation of wards and the issue of formation of wards for the election for the year 2017 whether was justified or not, loses its efficacy and the other issue is only of an academic importance.

4. Considering the aforesaid facts, we are of the opinion that no purpose would be served by keeping the petitions pending in this Court. The petitioner can raise substantive challenge for the amendment, if so advised in future. At present, no purpose would be served by keeping pending these petitions. As such, with liberty to the petitioner, the petitions are disposed of.

5. In view of the disposal of the petitions, no orders are required to be passed on pending applications. Accordingly, the pending applications are also disposed of.

(MANGESH S. PATIL, J.)

(PRASANNA B. VARALE, J.)