

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

WRIT PETITION NO.344 OF 2018

Javed Gulab Didbag & Ors.

...Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

.....

Mr. A.V. Anturkar, Senior Advocate i/b. Mr. Tanaji Mhatugade for the Petitioners.

Mr. P.G. Sawant, AGP for the Respondent -State.

Mr. S.B. Shetye for the Respondent No.2.

**CORAM : RANJIT MORE AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 7th FEBRUARY, 2018.

P.C.:-

The challenge in this Petition is to the order dated 30th December, 2017 passed by the Divisional Commissioner, Pune Division, Pune, finalising the ward formation and ward reservation for Ajra Nagar Panchayat.

2. By notification dated 13th Sept, 2017, issued as per the provisions of Section 341 A of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, Ajra Gram Panchayat has been declared as Ajra Nagar Panchayat. In view of the

ensuing election the area of the said Nagar Panchayat was divided into 17 wards admissible under the said Act taking into consideration the population of the Ajra Nagar Panchayat vide draft notification which was published on 11.12.2017. The objections were also called for from the voters between 11th December, 2017 to 18th December, 2017. The Petitioners have raised an objection on 16.12.2017. The objections were considered by the Collector after giving personal hearing to the Petitioners on 19.12.2017 and sent the same to Divisional Commissioner on 26.12.2017. The Commissioner, Pune Division Pune gave final approval to the draft on 30th December, 2017. The Petitioners by filing this Petition have challenged the said notification under which draft formation of ward is approved by the Commissioner.

3. Mr. Anturkar, the learned senior counsel for the Petitioners submits that the objections were heard by the District Collector whereas the report was prepared by the Additional Collector. He submits that it is settled principle of law that report should be prepared by the person who had heard the objections.

4. Mr. Shetye, the learned counsel for the Respondent No.2- State Election Commission, on the contrary submits that the objections were heard and report was prepared by the Collector himself. The

Additional Collector had only forwarded the report to the Divisional Commissioner, Pune Division, Pune, as the Collector was on leave. Mr. Shetye, in support of his submission has placed on record the relevant document, which is also shown to Mr. Anturkar. After perusal of the same, Mr. Anturkar does not press this objection.

5. Mr. Anturkar, the learned senior counsel then invited our attention to clause 17 of the order dated 15th June, 2016 of the Election Commissioner and submitted that the Divisional Commissioner did not consider the objections raised by the Petitioners. This submission is also without any merit as we find from the record that Divisional Commissioner has given approval to the formation of the ward after considering the objections and recommendations raised by the Petitioners and other persons similarly situated.

6. Mr. Anturkar, the learned senior counsel lastly submitted that the State Election Commissioner has not maintained the geographical continuity in formation of ward No.7 and Ward No.10.

7. We have perused the map. We have also perused the relevant Rules. Under the relevant Rules, the enumeration prepared by the Census Committee of India cannot be disturbed. The ward No.7 is

formed out of 5/1, 22 and 8. So far as the ward No.10 is concerned, it was formed out of 10 and 22. The State Election Commission has also maintained the ratio of population. If argument of Mr. Anturkar is accepted, there would be deviation in the enumeration, which is not permissible. We find that wards are formed in accordance with the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 and the Rules made therein and passed by the State Election Commission.

8. Taking totality of the facts and circumstances, we find no merits in the Petition. The Petition is accordingly dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)