

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

WRIT PETITION NO.3277 OF 2016

Chintaman Bhikaji Khandve & Anr. ...Petitioners

Versus

The Election Commission & Ors. ...Respondents

.....

Mr. Milind Deshmukh for the Petitioners.

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

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

DATED: 7th FEBRUARY, 2018.

P.C.:-

Heard Mr. Milind Deshmukh, the learned counsel for the Petitioner, Mr. S.B. Shetty, the learned counsel for the Respondent No.1 and Mr. P.G. Sawant, AGP for the Respondent -State. The Petition is filed for the following reliefs:-

“a) Rule be issued and R & P be called for.

aa)This Hon'ble Court may be pleased to direct the Respondent No.1 State Election Commission to appoint vigilance Committees at District Level to take cognizance of bona fide complaints of the voters and to verify the same in the interest of justice.”

b)This Hon'ble Court may be pleased to direct the Respondent No.2 Collector to correct the ward formation of ward No.3 & 4 of village Pimpalnare

and show the houses in ward no.3 as per resolution of gramsabha dated 13.01.2016 in the interest of justice.”

2. The relief claimed in prayer (b) pertains to the formation of the ward. The Petitioner does not dispute that the election to the village panchayat Pimpalner has already been held in the year-2016. In that view of the matter this prayer has rendered infructuous. So far as the relief claimed in prayer clause (aa) is concerned, the Petitioners claim that the Election Officers are taken on deputation from Revenue Department. They have close relation with local political leader and the Respondent No.1-Election Commission has no control over them. The Petitioners further claim that there is no authority at District level to take cognizance of complaints against them. The Petitioners therefore, claim that Election Commissioner should be directed to appoint Vigilance Committee to take cognizance of complaints lodged by the voters against the Election Officers, to investigate the complaints and if found guilty, to punish such Election Officer in accordance with law.

3. It may be mentioned that the Panchayat Act and the Village Panchayat (Number of Members, Division into Wards and Reservation

of Seats) Rules 1966 contains total mechanism and provides statutory remedy in the matter of ward formation, reservation of seats etc. The contention of the Petitioner appears to be that there is no provision under the Act and the Rules to take penal action against the erring Election Officers. In short, the Petitioner is seeking directions though indirectly, to compel the State Government to legislate. Suffice it to say that it is not open to the Court to have judicial legislation in matters which are exclusively within the domain of the Executive/Legislative.

4. In the light of above, we are not inclined to entertain the Petition. The Petition is accordingly dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)