

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

901 WRIT PETITION NO.1465 OF 2019

**SUNIL PRABHAKAR MIRKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioners : Mr. Devdatt P. Palodkar
AGP for Respondent – State: Mrs. M. A. Deshpande
Advocate for Respondent No. 2 : Mr. Ajit B. Kadethankar

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**CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.**

DATE : 1st February, 2019

ORAL ORDER :

1. Heard the learned counsel Mr. Palodkar for the Petitioners.
2. By claiming urgency, the petition was circulated yesterday before us. The learned counsel for petitioners invited our attention to the communication issued by the respondent No.2-State Election Commission Maharashtra (hereinafter to refer to as “the Election Commission” for sake of brevity). It was submitted that in a scheduled election for Sillod Municipal Council, electing the President and other members, by clause 3 of

the Communication, Election Commission initially observed that as per the earlier communication dated 9th January 2019, 1st January 2019 would be the qualifying date and 11th January 2019 is declared as a Cut-off date. It is also stated in clause 3 of the communication that the State Assembly Roll (Voters Electoral Roll) would be treated as the roll for the Sillod Municipal Council Elections. The election programme was also declared. By inviting our attention to clause 6 of the communication, wherein, the election programme is referred to. The counsel for the petitioner submitted that there was sufficient time provided for submitting the objections and the last date provided as per the programme was 25th January 2019. Then the learned counsel, by inviting our attention to a gazette notification dated 15th January 2019, submitted that a change is effected by way of this communication, and the Election Commission declared earlier circular dated 9th January 2019, whereby it was stated that 11th January 2019 would be the qualifying date for the roll. Then by clause 3 of this notification, it is further stated that the Electoral Voters Roll available on 31st January 2019 would be treated as the roll for the ensuing elections. Then our attention is invited to the modified

election programme, declared under communication dated 21st January 2019 and then by referring to clause 6 of this communication, the learned counsel Mr. Palodkar submitted that as per this election programme there is hardly any time for the persons who are willing to raise objections and it was further submitted by the learned counsel that till date i.e. till Yesterday there is no publication of the voters roll.

3. Then another objection was raised by the learned counsel by inviting our attention to communication/order dated 22.01.2019. It was submitted by the learned counsel Mr. Palodkar that the place chosen for submitting objections or suggestions is the office of the Collector, Aurangabad. It was the further submission of Mr. Palodkar, the learned counsel that it would be inconvenient for those who are willing to raise objections to travel from Sillod and to attend the Collector Office at Aurangabad for submitting their suggestions/objections within such a limited/short span. On considering these submissions on the backdrop of an urgency claimed, we have called upon the learned counsel Mr. Kadethankar who appears for respondent No.2 - Election Commission.

4. The learned counsel Mr. Kadethankar was fair enough to submit before this Court that he is not having instructions but if some time is given, he may immediately contact the officers concerned and submit instructions before this Court. Accordingly, the matter was kept today for hearing/disposal at Sr. No.1.

5. Today, Mr. Kadethankar, the learned counsel appearing for respondent No. 2 - Election Commission, makes a statement on instructions from the Officer of the State Election Commission, who is present in this Court, that yesterday itself the voters roll is made available on the website and the desirous persons may certainly obtain this information by way of opening the website. The learned counsel Mr. Kadethankar also fairly submitted that some delay is caused in making available the voters roll on website and due to certain technical aspects, the voters roll was made available on the website at late hours, but right now anybody who is desirous can certainly avail this information by approaching and opening the website. The learned counsel Mr. Kadethankar, on instructions, further submitted that the voters roll would be made available to the parties today itself if they approach the competent Election Officer. Mr. Kadethankar on

further instructions then submitted that care is also taken to redress another grievance of the petitioners and on instructions Mr. Kadethankar submitted that though by communication dated 22.01.2019 it was informed that the place for raising objections/suggestions would be the Municipal Administration Department of the Collector Office, Aurangabad, the Election Commission made necessary arrangements to receive objections/suggestions at Sillod in the office of Sub Divisional Officer, Sillod. Mr. Kadethankar also submitted that the election programme is now published and the code of conduct is now in operation.

6. It was the submission of Mr. Palodkar, the learned counsel for the petitioners that, without publishing the voters list, the election programme is published.

7. Considering all the above referred facts more particularly, the submissions of Mr. Kadethankar on instructions from a competent officer of the Election Commission, we are of the opinion that the Election Commission not only addressed to the objections raised by the petitioners but now these grievances are also redressed by way of making available the voters roll on website or making available the place nearest to the petitioners

i.e. in Sillod town itself for submitting objections/suggestions and in view of the operation of the code of conduct there is no reason for us to cause any indulgence in the elections. Accordingly, as now the purpose of the petitioners is served, the petition is disposed of.

8. We appreciate the prompt response from the State Election Commission and in turn the response by Mr. Kadethankar learned counsel appearing for the respondent No. 2 - Election Commission.

(S. M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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