

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

WRIT PETITION NO.2481 OF 2019

**PUSHPA NANDKISHOR SAHARE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.Ashok R. Tapse, Advocate for the petitioners
Mr.M.B.Bharaswadkar, Advocate for respondent No.1 & 4
Mr.Alok Sharma, Advocate for respondent Nos. 2,3 & 5

**WITH
WRIT PETITION NO.2514 OF 2019**

**PATHAN IRFAN KALIM PATHAN AND OTHERS
VERSUS
THE STATE ELECTION COMMISSION MAHARASHTRA STATE AND OTHERS**

Mr.Anandsing Bayas, Advocate for the petitioners
Mr.M.B.Bharaswadkar, Advocate for respondent No.1 and 4
Mr.Alok Sharma, Advocate for respondent Nos.2,3 & 5

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

DATED : 26.02.2019

P.C. :-

. The petitioners are before this Court with principal prayer clause-B and the same reads thus:-

“B] By issuing writ of mandamus, orders or directions in the like nature, the respondent authorities may please be directed to include the names of petitioners in the voters list of Sillod

Legislative Assembly Constituency and be permitted to caste their votes for the elections of Sillod Municipal Council in the interest of justice and oblige.”

2. The document is placed on record at Exh.A to submit that these two petitioners were residing at village Bhavan Tq. Sillod, Dist. Aurangabad and their names were included in the voters' list. Subsequently, these names were deleted with endorsement in the stamp as deleted at the instance of the petitioner as the petitioners shifted residence from Bhavan to Sillod. The petitioners on 15.10.2018 submitted an application to the respondent authorities requesting the authorities to add the names of the petitioners in the voters' list for Sillod constituency. The application is accepted by the authority under the signature and bearing No.339. Copy of this receipt is placed on record at Exh.B. The petitioners also submitted an application by way of online procedure. The petitioners submitted application on 15.10.2018 and as per the track status it reached to an Officer namely B.L.O. on 16.10.2018 and was accepted on 29.10.2018. The State Election Commission on 21.01.2019 declared the election programme for Sillod constituency. As per the programme publication of voters' list was scheduled on 31.01.2019. Objections and

suggestions were invited in the scheduled period of 31.01.2019 to 02.02.2019. The final voters' list was to be published with certification on 04.02.2019 and then voting centres and the voters' list as per the voting centres was to be published on 05.02.2019. The petitioners have immediately submitted objection on 02.02.2019 i.e. on the last scheduled date of inviting objections and suggestions. It is specifically stated in the application that the petitioners have shifted from village Bhavan to Sillod town. They have made applications for inclusion of their names in the voters' list. As no action is taken on the applications the petitioners are again requesting the authorities for inclusion of their names in the voters' list. No orders are passed on the applications dated 15.10.2018 or online application accepted by authority on 29.10.2018 or on the objection dated 02.02.2019. Petition is filed in this Court on 17.02.2019. Notice was issued by us on 22.02.2019. The communication issued by the State Election Commission dated 31.01.2019 is also placed on record alongwith petition as per the annexure-1 of the communication dated 31.01.2019. Election programme started from 04.02.2019 and voting is scheduled on 27.02.2019 i.e. tomorrow. Declaration of result is scheduled on 28.02.2019. Learned counsel for the

petitioners placed reliance on the order of this Court dated 07.02.2019 in writ petition No.1724/2019 in support of his submission for a prayer to allow the petition.

3. Mr.Bharaswadkar, learned counsel for the respondent Nos. 1 and 4 expressed inability on the ground that respondent No.1 can take appropriate steps only if respondent No.3 undertakes an exercise of effecting the inclusion of names of the petitioners in the voters' list.

4. Mr.Sharma, learned counsel for respondent Nos.2,3 and 5 as the election programme is declared by respondent No.1 submitted that the authorities are admits the election schedule at this stage, it will not be possible for respondent No.3 to effect the inclusion of names of the petitioners in the voters' list. Mr.Sharma, learned counsel on instructions makes a statement before us that though it will not be possible for respondent No.3 to take any steps due to paucity of time, the necessary steps would be taken on the backdrop of the application dated 15.10.2018, online application dated 15.10.2018 accepted on 29.10.2018 so as to include the name of the petitioners in the voters' list which would be prepared and finalize for ensuing general election for

the year 2019 and as such at least a care would be taken to see that the petitioners are not deprived of casting their votes in the general elections for the year 2019.

5. Considering the peculiar facts situation though we could not find fault who have approached the authority well within the time, as the election programme is declared and as per the declared election programme voting is scheduled tomorrow itself i.e. 27.02.2019 and we have taken up this petition for hearing and it is being disposed of by us at about 04.40 pm the learned counsel appearing for respondent Nos. 1 and 2 were justified in submitting before us that already time is running against the authorities and it would be practically and herculean task to take all necessary steps for conduct of the election including voting scheduled tomorrow and such pick hours in the election any indulgence or the directions for the inclusion the names of the petitioners in the voters' list would disturb set of procedural formalities and it would be unsettling the practically process at eleventh hour. We refrain ourselves from issuing any direction to respondent authorities. We accept the statements made by Mr.Sharma, learned counsel that necessary steps would be taken for inclusion the names of the petitioners in the

voters' list which would be prepared and finalized for Sillod constituency for general election of the year 2019.

6. In so far as the writ petition No.2514/2019 is concerned only difference in the facts is that though the names of the petitioners were appearing in the voters' list, the names of the petitioners were deleted in the voters' list. Copies of both the voters' list are placed on record at annexure-A page 20 and annexure-C page 65 respectively. Except difference in this fact other facts are identical namely raising objection to the authority pending before the authority and time table of the scheduled election and now considering the order passed by us in writ petition No.2481/2019 we see no reason to take any different view in the writ petition No.2514/2019 accepting the statement of Mr.Sharma, learned counsel that necessary steps would be taken and these petitioners would not be deprived from casting their votes in the general elections scheduled for the year 2019.

7. With the above direction, the petitions are disposed of.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]