

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

Writ Petition No. 12452 of 2019

District : Jalna

Matsyodari Shikshan Sanstha,
Near Moti Bag, Jalna,
through its Administrative Officer,
Babasaheb Ramchandra Gaikwad,
Age : 57 years,
Occupation : Service,
Office at - Gut No. 488,
Near Moti Bag, Old Jalna,
Dist. Jalna.

.. Petitioner.

versus

1. The Secretary,
General Administration Department,
Mantralaya, Mumbai - 32.
2. The Election Commission of India,
Through its Commissioner,
Nirvachan Sadan,
Ashoka Sadan, New Delhi - 110 001.
3. The District Election Officer &
District Collector,
Collector Office, Jalna,
Dist. Jalna.
4. The Assistant Returning Officer
& Tahsildar,
Assembly Constituency, Jalna.
5. The Assistant Returning Officer
& Tahsildar,
Assembly Constituency,
Ghansawangi.
6. The Assistant Returning Officer
& Tahsildar,
Assembly Constituency,
Badnapur.

.. Respondents

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Mr. Mahesh V. Ghatge, Advocate, for the petitioner.

*Mrs. M.A. Deshpande, Additional Government Pleader,
for respondent no.01.*

*Mr. Alok M. Sharma, Advocate, for respondent
nos.02 to 06.*

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**CORAM : S.V. GANGAPURWALA &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 14TH OCTOBER 2019

ORAL ORDER :

01. We have heard learned Counsel Mr. M.V. Ghatge for the petitioner, learned AGP Mrs. M.A. Deshpande for respondent no.01 and learned Counsel Mr. A.M. Sharma for respondent nos.02 to 06.

02. Mr. Ghatge submits that notice has been issued to the petitioner - institution calling for the details of the staff i.e. with a view to ask them to perform election duty in the forthcoming legislative assembly elections. Learned Counsel submits that the petitioner runs private college, though grain in aid. The respondents cannot take the services of the staff of the petitioner - private institution. Reliance is placed by learned Counsel on the judgment of the Division Bench of this Court in *Shikshan Mandal, Goregaon, Mumbai & others Vs. Election Commission of India & others*, Writ Petition No. 1841 of 2009, dated 12-04-

2019. Learned Counsel also relies on Section 26 of the Representation of People Act, 1951 and Section 29 of the Representation of People Act, 1950.

03. Mr. A.M. Sharma, learned Counsel for respondent nos.02 to 06 relies on Section 159 of the Representation of People Act, 1951 and submits that the judgment of this Court in *Shikshan Mandal, Goregaon, Mumbai (supra)* is under Section 29 of the Representation of People Act, 1950.

04. Naturally, the Election Commission has not allotted any election duty to the petitioner. The petitioner is only called upon to give the details of its staff. The petitioner has an opportunity to represent before the authority about its staff not being liable for election duty and/or the feasibility of the staff to be provided for election duty and the examination programme of the University.

05. As no order is passed as yet by the Election Commission with regard to the election duty of the petitioner's staff, we are not inclined to pass any order at this stage.

06. Naturally, the Election Commission will consider all the aspects of the matter including writ petition filed by the petitioner.

07. Writ Petition accordingly disposed of. No costs.

(Smt. Vibha Kankanwadi)
JUDGE

(S.V. Gangapurwala)
JUDGE

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