

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 912/2019

Satish Mahadeorao Uke,

..VS..

Police Inspector, Police Station, Sadar, Nagpur and Ors.,

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Petitioner in person.

Shri S. Y. Deopujari, Public Prosecutor for the respondent Nos.1 and 5.

Smt. S. G. Choube, Advocate for respondent No.3.

Shri N. C. Phadnis, Advocate for the respondent Nos.2 and 4.

CORAM : Z.A.HAQ, AND
PUSHPA V. GANEDIWALA, JJ.

DATED : 14th October, 2019

Heard.

Though the petitioner prayed for several directions against the Authorities, on the last date, we have expressed in our order that the respondents should come out with their stand on the grievance made by the petitioner about preserving the CCTV footage.

Shri N. C. Phadnis, Advocate for the respondent Nos.2 and 4 and Shri S. Y. Deopujari, learned Public Prosecutor appearing for respondent Nos.1 and 5 have pointed out from the Handbook of the Returning Officer published in February 2019, Guideline No. 5.7.6 and Guideline No. 19.10 which lay down the procedure for arrangements in the room specified for filing of nomination papers and for storage and supply of CCTV recording.

Affidavit sworn by respondent No.5 - District Election Officer, Nagpur is also placed on record pointing out that the above referred guidelines issued by Election Commission are being followed.

The petitioner-in-person, states that footage of the CCTVs which are permanently installed in the premises of the office of S.D.O., Nagpur should also be preserved by the respondents. The petitioner-in-person as well as the advocates representing the respondents submit that the CCTV which are permanently installed in the office of S.D.O., Nagpur are not covered by the guidelines issued by the Election Commission. It being so, the subject matter cannot fall for consideration by this Court in Criminal Writ Petition. The petitioner will be at liberty to approach appropriate forum for redressal of the said grievance.

Another grievance of the petitioner is that as per Section 33-A(3) of the Representation of the People Act 1951, the Returning Officer is under obligation to display the information as soon as it is furnished by the candidate at a conspicuous place at his office for the information of the electors of the constituency, but the Returning Officer failed to display the affidavit submitted by the candidate - Devendra Fadnavis immediately, and it was displayed at 06.00 p.m. According to the petitioner, because of this delay, the flaws in the affidavit/nomination form could not be pointed out to the Election Officer at the time of scrutiny on the next date. The petitioner has prayed that the respondents be directed to take cognizance on the complaint made by the petitioner on 06th October, 2019.

Undisputedly, the stage of scrutiny of nomination forms is over and process has progressed further. Hence, in our view, it would not be appropriate to issue directions as sought by the petitioner, under Articles 226 and 227 of the Constitution of India. It would be open for the petitioner to raise his grievance in appropriate proceedings before appropriate forum.

The other factual aspects which are raised in the petition to urge that the nomination form of the concerned candidate could not have been accepted also cannot be gone into under Articles 226 and 227 of the Constitution of India.

After considering the rival submissions and going through the reply filed by the respondent No.5 and the relevant guidelines, at this stage, we do not find that any interference is required by exercising extraordinary jurisdiction.

Hence, the writ petition is **dismissed**. No costs.

JUDGE

JUDGE