

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

WRIT PETITION NO. 7961 OF 2020

Tulshidas s/o Nimba Ahire

.. Petitioner

Versus

Age 50 years, Occu. Agri.,
R/o at post Khede,
Taluka and District Dhule and ors.

.. Respondents

Mr D.S. Bagul, Advocate for petitioner
Mr A.B. Kadethankar, Advocate for respondent no.1
Mr K.N. Lokhande, A.G.P. for respondents no.2 and 3
Mr V.B. Madan, Advocate for respondent no.4
Mr Alok Sharma, Standing Counsel for respondent no.5

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 10th December 2020

PER COURT :

1. Leave to add Election Commission of India as party respondent.

Mr Alok Sharma, learned Counsel waives notice for added respondent.

2. The petitioner is challenging the voters list dated 17.11.2020 bearing No. 206 prepared for the election of Village Panchayat, Khede.

3. According to learned Counsel for the petitioner, the petitioner is a valid voter for Village Panchayat, Khede. He had contested the election for the year 2015. He was also elected as Sarpanch of Village Khede. Learned Counsel for the petitioner submits that in the present voters list, name of the petitioner does not appear from Village Panchayat, Khede constituency. According to him, the name of the petitioner appeared at Valvadi constituency. As such, the petitioner on 28.6.2015 filed Form-7 for deletion of his name from Valvadi village. Again on 22.10.2019, petitioner filed Form-7 for deletion of his name from village Valvadi since the name of the

petitioner was not deleted from the Valvadi constituency. Instead, the name of the petitioner is deleted from Khede constituency. The same is erroneous.

4. Mr Sharma, learned Counsel for Election Commission of India submits that unless and until the petitioner files Form-6, his name would not be included in the village voters list. It is because of the same, his name appears in Valvadi voters list. The petitioner cannot have his name in two electoral divisions as per Section 17 of the Representation of Peoples Act, 1950. The learned Counsel further placed reliance on Section 31 of the Representation of Peoples Act 1950 to suggest that if the false declaration is made, it is a punishable offence. According to the learned Counsel, now, fresh provisional voters list has been published and objections to the same are to be raised upto 15.12.2020 and the same would be decided upto 15.1.2021. The petitioner can raise his objection.

5. It appears that name of the petitioner appeared as voter from village Valvadi and also from village Khede. It also appears that the petitioner in 2015 contested election from Khede and was also Sarpanch of the Gram Panchayat, Khede.

6. We do not find any record that the petitioner has filed application for inclusion of his name in village Valvadi in the year 2015. Be that as it may, the name of the petitioner is included in both the villages. It appears from the documents placed on record that petitioner had filed form - 7 on 28.6.2015 for deletion of his name from village Valvadi.

7. It further appears that the report is prepared by the Booth Level Officer for deleting the name of the petitioner from the list of village Valvadi.

8. It further appears that there was some confusion. The report was also submitted by the Talathi that the petitioner is residing with his family at Valvadi. The said report is dated 7.12.2020.

9. It also appears that the family members of the petitioner find their names in voters list of village Khede. Except the petitioner, name of all the family members of petitioner appear in the voters list of village Khede.

10. It appears to be the case of *bona fide* mistake on the part of the authority. The applications given by the petitioners on 28.6.2015 and 22.10.2019 i.e. in Form - 7 are not considered or the report of Booth Level Officer of deleting the name of the petitioner from the list bearing No.230 was wrongly considered.

11. In light of the above, Election Commission of India shall ensure that the name of the petitioner is included from the electoral division of Khede *inter alia* as a voter of village Panchayat of Khede. The name of petitioner be deleted as voter from Valvadi.

12. We have passed this order in view of the fact that the election programme of Khede Gram Panchayat is not yet declared.

13. Writ Petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)