

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

WRIT PETITION NO. 5303 OF 2021

Kernath Vidyanath Chavan

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mr. P.V. Barde, Advocate for petitioner

Mr. P.N. Kutti, A.G.P. for respondent – State

Mr. A.B. Kadethankar, Advocate for respondent nos. 2, 3 and 4

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**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.
DATED : 25th MARCH, 2021**

PER COURT :

1. Mr. Barde, learned counsel for the petitioner submits that one of the contesting candidate died on the day of scrutiny of nomination i.e. 31st December, 2020. The only option open to the Returning Officer is to countermand the election, instead of that the Returning Officer declared another candidate elected uncontested. Same is illegal. The petitioner is a voter. His right of franchise is affected.

2. Mr. Kadethankar, learned counsel submits that the Returning Officer has not committed any illegality. The candidate, who died, did not come within the purview of contesting candidate. Contesting candidate

would be the one remained in the fray after the last date of withdrawal of nomination. Said stage has not arrived at the time when the said candidate died. Even otherwise, the petitioner would not be affected party as he was not a contesting candidate for that ward.

3. In view of that no case for interference is made out. Writ petition is disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)
SSD

(S.V. GANGAPURWALA, J.)