

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

WRIT PETITION NO. 341 OF 2021

Mobin s/o Matin Shaikh

..Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr C.R. Thorat, Advocate for petitioner

Mr P.K. Lakhotiya, A.G.P. for respondents no.1, 3 and 4

Mr A.B. Kadethankar, Advocate for respondent no.2

Mr Alok Sharma, Advocate for respondent no.5

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

DATE : 19th January 2021

PER COURT :

1. Mr Thorat, learned Counsel for the petitioner submits that the names of 49 persons in Ward No.9 of Badnapur are erroneously entered in the voters list. These 49 persons are not residing in the said Ward. No proper enquiry has been made and independent statements are not recorded of the family members of those 49 persons. The panchnama carried out is too vague and does not inspire confidence. The appellate authority also failed to consider the grievance of the petitioner in correct perspective. The respondents be directed to conduct re-enquiry in the matter.

2. Mr Sharma, learned Counsel for respondent no.5 submits that pursuant to the complaint, enquiry was conducted. The B.L.O. made an enquiry. Panchnama is made. The statements were recorded of the relatives of the 49 persons. Those 49 persons have gone to other place for work temporarily. So, they still remain the ordinary residents of particular place where their names appear.

3. We have also heard Mr Kadethankar, learned Counsel for the State Election Commission.

4. The petitioner, it appears is interested in contesting the election of Nagar Panchayat. The voters list of the State Legislative Assembly is relevant for preparing the voters list for the elections of Nagar Panchayat. In the State Legislature's voters list, the names of these 49 persons appear. It appears that pursuant to the complaint of the petitioner, enquiry was conducted. The enquiry contemplated under the Statute namely Representation of Peoples Act, 1950, is summary in nature.

5. Pursuant to the complaint of the petitioner, the enquiry was conducted. Panchnama is made. The persons making the enquiry have affirmed the panchnama wherein it is observed that those 49 persons are ordinary residents of the place where their names appear. However, temporarily for work purpose, they have gone outside. The appellate authority has also applied his mind.

6. Considering above that the complaint of the petitioner has been attended to, enquiry has been conducted and the appeal is also dismissed, it would not be possible now to consider the disputed questions of facts in the present petition.

7. In light of that, Writ Petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)