

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2070 OF 2021

Mangal Bharat Machale

.. Petitioner

Versus

The Tahsildar, Shirur & Ors.

.. Respondents

-
- Mr. Surel S. Shah for the Petitioner
 - Mr. A.I. Patel, Addl. G.P. for the State
 - Mr. Abhishek Rajendra Avachat for Respondent No. 2
-

CORAM : S.J. KATHAWALLA &
MILIND N. JADHAV, JJ.

DATE : JUNE 29, 2021.

P.C.:

The above Writ Petition is filed for the following reliefs:-

- "A] That this Hon'ble Court may be pleased to issue Writ of Certiorari or any other appropriate right order of direction thereby calling for the records and proceedings from the office of Respondent No. 1 in respect of election to ward No. 2 of Grampanchayat Babhulsar, Tal. Shirur, District Pune and after calling for the same to be pleased to examine the legality and propriety of the declaration of result in so far election of Petitioner and Respondent No. 2 is concerned (Exhibit B to this Petition), further after examining the same be pleased to quash and set aside the declaration of election dated 18.01.2021 to ward no. 2 of Grampanchayat Babhulsar Budruk, Taluka Shirur, District Pune;
- B] After quashing and setting aside the declaration of election dated 18.01.2021 to ward No. 2 of Grampanchayat Babhulsar Budruk, Taluka Shirur, District Pune this Hon'ble Court be pleased to issue

Writ of mandamus or any other appropriate order or direction thereby directing Respondent No. 1 to first open the tendered vote, consider the same and declare the result accordingly."

2. There is no dispute that an alternate remedy in the form of filing an Election Dispute before the Civil Judge Junior Division, Taluka Shirur, District Pune is available to the Petitioner. However, learned Advocate for the Petitioner states that in view of the delay on the part of the Respondents in forwarding a copy of the declaration of the result of the election, he has lost his chance to file an Election Dispute.

3. Learned Advocate appearing for Respondent No. 2 states that the Petitioner cannot be heard to say that his election dispute is barred by the law of limitation in view of the general orders passed by the Supreme Court from time to time extending the period of limitation, the last order being dated 27.04.2021.

4. In view of the above, the following order is passed:-

- (i) Petitioner shall file Election Dispute before the Civil Judge Junior Division, Taluka Shirur, District Pune within a period of one week from today.
- (ii) If the Election Dispute is filed within a period of one week from today, the learned Civil Judge Junior Division, Taluka Shirur, District Pune shall endeavour to dispose of the same within a period of 12 weeks from the date of

filing.

- (iii) Advocates for the Respondents state that they shall not raise the issue pertaining to limitation. In other words, they shall not contend that the Election Dispute is barred by the law of limitation. The statement is accepted.
- (iv) Parties shall appear before the Civil Judge Junior Division, Taluka Shirur, District Pune on 12.07.2021 and obtain necessary directions.
- (v) All contention of the parties are kept open.
- (vi) Writ Petition stands disposed of.

[MILIND N. JADHAV, J.]

[S. J. KATHAWALLA, J.]