

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

WRIT PETITION NO.44/2021

Naim Shah Kadir Shah .vs. Returning Officer and Tahsildar, Tq. Akot and another

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

Court's or Judge's orders.

Mr. U. J. Deshpande, Advocate for petitioner.
Mr. S. M. Ukey, A.G.P. for respondent no.1.
Mr. Z. Z. Haq, Advocate for respondent no.2.

CORAM : V.M. DESHPANDE, J.

DATED : FEBRUARY 4, 2021

Heard Mr. Deshpande, learned counsel for petitioner, Mr. Ukey, learned A.G.P. for respondent no.1 and Mr.Haq, learned counsel for respondent no.2.

By this writ petition, the petitioner is challenging order dated 31.12.2020 passed by respondent no.1, rejecting his nomination papers to contest election from Gram Panchayat, Mohala, Tq. Akot, Dist. Akola. The petitioner then approached this Court and this Court (Coram: Manish Pitale, J.) on 04.01.2021, while issuing notices to the respondents, granted interim relief in favour of the petitioner. In view of the interim relief, the petitioner was permitted to contest election of the Gram Panchayat. As per the submission of learned counsel for the petitioner, the petitioner got elected.

Though interim relief was granted by this Court, it was subject to the result of this petition.

Mr. Ukey, learned A.G.P. for respondent no.1 and Mr. Haq, learned counsel for respondent no.2, submitted that in view of the law laid down by Full Bench of this Court in Writ Petition (ST). No. 26/2021, Karmaveer Tulshiram Autade

and Ors. vs. The State Election Commission, Mumbai and ors.: decided on 13.01.2021, writ petition challenging rejection of nomination papers is not maintainable. In view of the said law, this writ petition is not tenable. Though, the petitioner contested the election and got elected in view of the interim order dated 04.01.2021, it was specifically observed by this Court that interim order shall be subject to outcome of this writ petition.

Hence, the writ petition is dismissed as not maintainable. Since writ petition is not maintainable, interim order dated 04.01.2021 stands vacated and its consequences to follow.

JUDGE

kahale