

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION NO.792 OF 2021

Suresh s/o Pundlikrao Jogale ... Petitioner

- Versus -

State of Maharashtra and others ... Respondents

Shri R.D. Karode, Advocate for Petitioner.

Smt. K.S. Joshi, I/c Government Pleader for Respondent Nos.1, 3 and 5.

CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.

DATE : 9 FEBRUARY 2021

P.C. :

The Petitioner seeks quashing and setting aside of the election of Respondent No.4 as Member of Gram Panchayat, Hatgaon, Taluka Murtizapur, District Akola.

2) Shri Karode, learned Counsel for the Petitioner, concedes that if election petition is to be filed, the same would be beyond the period of limitation as provided under the statute.

3) The Apex Court in the case of *Assistant Commissioner (CT) LTU, Kakinada and others vs. Glaxo Smith Kline Consumer Health Care Limited*¹ has held that if a statutory remedy is barred by limitation, same cannot be extended by exercising writ jurisdiction under Article 226 of the Constitution of India. Therefore, relief sought for by the Petitioner cannot be granted.

4) Shri Karode, learned Counsel for the Petitioner, then submits that the Petitioner may be given liberty to make a representation to the Election Commission.

5) If such a remedy is available in law, it is always open to the Petitioner like any other citizen to avail of the same. Writ Petition is accordingly disposed of.

(ANIL S. KILOR, J.)

(NITIN JAMDAR, J.)

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1 2020 SCC OnLine SC 440