

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

**WRIT PETITION NO. 4846 OF 2021**

Sau. Rekha W/o Santosh Turkar  
(Ku. Rekha D/o Baburao Tandekar),  
Aged about 37 years, Occ – Household,  
R/o. At & Post – Deori, Prabhag/Ward  
No.9, Tahsil – Deori, District – Gondia –  
441 901

.. Petitioner

**Versus**

1. The State Election Commission through its Commissioner, having Office at New Administrative Building, Hutatma Rajguru Chowk, Madam Cama Marg, Mumbai – 400 032
2. The Collector, Gondia
3. The Sub-Divisional Officer-cum-Chief Election Officer, Deori, District–Gondia
4. Nagar Panchayat, Deori, Tahsil – Deori, District – Gondia through its Chief Executive Officer
5. The Tahsildar, Deori, District – Gondia

.. Respondents

Mr. Nitin Jachak, & Mr. S. K. Hatwar, Advocate for petitioner.

Mr. J. B. Kasat, Advocate for respondent No.1.

Mr. N. R. Patil, AGP for respondent Nos.2, 3 and 5.

**CORAM : SUNIL B. SHUKRE AND**  
**ANIL L. PANSARE, JJ.**

**DATED : 29/11/2021**

**ORAL JUDGMENT** (Per Sunil B. Shukre, J.)

Heard Mr.Nitin Jachak, learned counsel for the petitioner, Mr. J. B. Kasat, learned counsel for the respondent No.1 and Mr. N. R. Patil, learned AGP for respondent Nos.2, 3 and 5. There is no need to issue notice to the respondent No.4, as the issue involved in this petition would have to be dealt with only by respondent No.1 and at the most by respondent No.2.

(2) **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties present before the Court.

(3) It is pointed out by Mr. Kasat, learned counsel for the respondent No.1 and Mr.Patil, learned Assistant Government Pleader for respondent Nos.2, 3 and 5 that it would be the provision made in Section 11 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (hereinafter referred to as '**Act of 1965**'), which would govern the issue. According to them, the electoral roll of the Maharashtra Legislative Assembly prepared under the provisions of the Representation of the People Act, 1950,

which is authenticated and notified by the State Election Commissioner, is the list of voters for each ward and in the present case, the electoral roll prepared for the Maharashtra Legislative Assembly, has been declared to be the voters' list for the purpose of Deori Nagar Panchayat as per the notification issued on 01/11/2021 and in this voters' list name of the petitioner having not been included, now her name cannot be included.

(4) Reliance has been placed upon the view taken by this Court in a similar case i.e. Firoz Khan Daddu Khan Pathan vs. State Election Commission and others [ Writ Petition No. 3606 of 2020 decided on 22/12/2020 ].

(5) Learned counsel for the petitioner submits that if the contentions of Mr. Kasat, learned counsel for the respondent No.1 and Mr. Patil, learned AGP for respondent Nos.2, 3 and 5 are accepted, the election program as published in the present case (page 22) would lose significance and the date stated therein for the purpose of finalization of the voters' list will only be a paper formality.

(6) So far as the law governing the issue is concerned,

we find that this case having similar facts as the case of Firoz Khan(supra), is squarely covered by the view taken by this Court in its Judgment dated 22/12/2020. In that case, Section 12 of the Maharashtra Village Panchayats Act was interpreted in the light of Sections 22 and 23 of the Representation of the People Act, 1950 and also Rule 13 of the Registration of Electors Rules, 1960 and it was held that for the purposes of Gram Panchayat Elections, it is only the electoral roll of the Maharashtra Legislative Assembly, which has been notified and published for the purposes of Gram Panchayat election on a particular date by the State Election Commissioner is valid. In the present case, the provisions of Section 11 of the Act of 1965 are substantially similar to those made in Section 12 of the Maharashtra Village Panchayats Act. For the sake of convenience Section 11 of the Act of 1965 is reproduced as under :-

***“11. Preparation of list of voters. – The electoral roll of the Maharashtra Legislative Assembly prepared under the provisions of the Representation of the Peoples Act, 1950, for the time being in force, on such date as the State Election Commissioner may, by general or special order notify, shall be divided by the State Election Commissioner into different sections corresponding to different wards in the municipal area; and a printed copy of each section of the roll so divided and authenticated by the State Election Commissioner or an officer authorised by him, shall be the list of voters for each ward.”***

(7) It would be clear that for the purpose of Nagar Panchayat election, the electoral roll of the Maharashtra Legislative Assembly duly notified and published as being the voters' list for the purposes of Nagar Panchayat elections on a particular date which would decide the issue involved in the present case. This electoral roll has been published in the Official Gazette on 01/11/2021 and it did not include the name of the petitioner in the voters' list for Deori Nagar Panchayat election. Therefore, now the petitioner cannot contend that her name has been wrongly deleted and it be included in the voters' list.

(8) It is true that the election program includes a stage of finalization of the ward wise voters' list and the date given in that regard is of 29/11/2021. It must be noted that it is the stage of finalization of the voters' list as fixed in the election program which is marked by the date of 29/11/2021. This date is not in relation to the inclusion or deletion of the names of the voters in the voters' list, but it is in relation to adjustment of voters in different wards and this is an operation, termed as "scissors-and-paste" in paragraph 37 of the judgment rendered in the case of *Shri Savio O. Fernandes and another*

*Vs. State Election Commissioner and others reported in AIR 1996 Bombay 343*, which has been followed by this Court in the case of Firoz Khan (supra) decided on 22/12/2020. That being the purpose of the date of 29/11/2021, which was fixed for finalization of the ward-wise voters' list, it cannot be said that the voters' list had not attained finality, when it was published on 01/11/2021, at least as regards the inclusion of the names of the voters therein and deletion of the names of the voters therefrom. The purpose of this petition is of inclusion of the name of the petitioner in the voters' list, which is not covered by the purpose for which the ward-wise voters' list was to be finalized, as per the election program on 29/11/2021.

(9) In the result we find no merit in the petition. The petition stands dismissed. Rule is discharged. No costs.

[ANIL L. PANSARE J.]

[ SUNIL B. SHUKRE J.]

KOLHE