

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

WRIT PETITION NO.4961/2021

Uday S/o Uttamrao Narwade

..Vs..

The State Election Commission, Mumbai and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.B. Patil, Advocate for the petitioner.
Mr. J.B. Kasat, Advocate for respondent No.1.
Mr. D.P. Thakare, Additional Government Pleader for respondent No.2.
Mr. Pravin P. Deshmukh, Advocate for respondent No.3.

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

DATED :- 6.12.2021.

Heard Shri Patil, learned counsel for the petitioner. He has taken an exception to the conduct of respondent No.2 in not deciding the objection taken by the petitioner on some of the voters shown in the voters' list prepared for Nagar Panchayat Mahagaon elections being not residents of Mahagaon and being residents of villages outside the limits of Mahagaon Nagar Panchayat, could not have been shown as registered voters in elections of Nagar Panchayat, Mahagaon. Learned counsel for the petitioner submits that not deciding this objection, inspite of clear mandate of the order dated 17th November, 2021 issued by the State Election Commission and clear caution given in this order that care must be taken that no outsider voters are included in the voters' list, respondent No.2 did not consider the objection. According to learned counsel for the petitioner, inaction

on the part of respondent No.2 amounts to playing into the hands of fraudulent elements and this has vitiated the purity and sanctity of the election process.

2. Learned counsel for respondent No.1, on instructions, submits that the election programme has been declared on 29th November, 2021 (page 51-A Annexure 3) and, therefore, now no interference by invoking writ jurisdiction of this Court under Article 226 of the Constitution of India is permissible.

3. The election programme having been declared, about which there is no dispute, the election process has started and, therefore, following the consistent law laid down by the Apex Court in the cases of N.P. Ponnuswami V/s. The Returning Officer, Namakkal Constituency, Namakkal, Salem Dist. & Ors., AIR 1952 SC 64 and Mohinder Singh Gill & Anr. V/s. The Chief Election Commissioner, New Delhi & Ors., reported in (1978) 1 SCC 405, which has been clarified by the Full Bench of this Court in the case of Karmaveer Tulshiram Autade and others V/s. The State Election Commission, Mumbai and others decided on 13th January, 2021 in Writ Petition (Stamp) No.26/2021 together with other connected matters and as explained in the case of Election Commission of India through Secretary V/s. Ashok Kumar & Ors, reported in (2000) 8 SCC 216, no interference by this Court by invoking its extraordinary jurisdiction is permissible, as rightly submitted by Shri Kasat, learned counsel for respondent No.1 and the only remedy that would be available to the petitioner would be an election petition to be filed under Section 21 of the Maharashtra

Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965. The petition is, therefore, dismissed summarily. No costs.

JUDGE

JUDGE