

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

994 WRIT PETITION NO.2070 OF 2022

PRASAD PRAKASH SHELKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr.U.U. Wagh, advocate for the petitioners.
Mr.D.R.Kale I/c.GP for the respondent/State.
Mr.A.B.Kadethankar, Advocate for respondent no.4.

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CORAM : S.V. GANGAPURWALA
AND

S.G. DIGE, JJ.

DATE : 11th FEBRUARY, 2022

PER COURT :-

1. We are not convinced with the arguments of the learned counsel for the petitioners. The petitioners are challenging the draft notification of converting respondent no.4 – Nagar Panchayat to Municipal Council only because the election programme is declared and the elections of Respondent no.4 – Nagar Panchayat are held on 21.12.2021 and 18.01.2022, the draft notification cannot be illegal.

2. The notification is a draft notification. The objections are invited to the said notification. After objections are invited, the said objections are considered. One of the petitioner has raised objection to the said notification. The said objection is turned down

and, that petitioner has already filed Writ Petition assailing the same.

3. In the present matter, we do not find any legal impediment for issuance of proclamation.

4. The learned counsel placed reliance on the judgment of the Division Bench of this Court in the case of **The Grampanchayat Kharghar & another Vs. The State of Maharashtra & others** reported in (2017) 2 Bom CR 615. The said judgment may not inure to the benefit of the petitioners. In the said judgment, the Division bench had expressed opinion and hope that the Government would take decision regarding the formation of a smaller urban area or a larger urban area, change of boundaries, expansion of the areas of the corporation/council and local bodies well in advance i.e. at least six months prior to the expiry of the term of such council/corporation, so as to avoid unnecessary exercise and save public time and money.

5. The elections of respondent no.4 – Nagar Panchayat have already taken place and prior to that the draft proclamation is already issued. One of the petitioner has raised objection to the same. The objection is rejected and against the same, the separate Writ Petition

is filed as contended by the learned counsel for the petitioners.

6. Unless there is some illegality in the proclamation, the same cannot be set aside.

7. In view of that, the present Writ Petition stands disposed of. No costs.

8. With regard to the prayer of the petitioners for conducting the elections for remaining posts by the State Election Commission, it is for the State Election Commission to take decision on its own merits.

(S.G.DIGE, J.)

(S.V. GANGAPURWALA, J.)

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