

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1012 WRIT PETITION NO.5682 OF 2022

MANOJ ASHOK SHEKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH
ITS SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Gangakhedkar S.S. h/f. Mr. U.L. Momale
AGP for the respondent – State : Mr. S.N. Morampalle
Advocate for the respondents no. 2 to 4 : Mr. V.H. Dighe
...

CORAM : MANGESH S. PATIL, J.

DATE : 21 JUNE 2022

PC :

Heard.

2. The petitioner is aggrieved by rejection of his objection to the deletion of his name from the provisional voters' list.

3. The learned advocate Mr. Gangakhedkar for the petitioner would submit that without undertaking objective scrutiny and overlooking the facts that the petitioner has been allotted permanent "I" number reflected in the provisional voters' list which was published in the year 2015. It was also overlooked that during that process he had contested the election, still, simply by relying upon report submitted by the Assistant Registrar and the Secretary of the Society that the impugned order rejecting his objection has been passed depriving him of exercising his right to vote in the election as an individual and even has prevented him from contesting the election. The allocation of "I"

number was decisive of the fact and the Returning Officer ought not have travelled beyond it.

4. Learned advocate Mr. V.H. Dighe for the respondents no. 2 to 4 submits that the Returning Officer during the process of election and finalization of the voters' list is merely expected to undertake a summary scrutiny. When the Assistant Registrar and the Secretary of the Society in their report submitted that the petitioner was not the member of the society, and more so, when petitioner had not produced any independent record except the provisional voters' list of 2015, it cannot be said that the objection was improperly rejected.

5. There is no dispute about the fact that the process of election has reached at an advanced stage. Tomorrow is the date for withdrawal of the nominations and voting is to take place on 2 July 2022.

6. As can be seen from the order under challenge, the dispute revolves around the fact as to if the petitioner is a member of the society and is entitled to be included in the voters' list. Going by the reasoning given by the Returning Officer except the fact that at the previous election, in a provisional list of voters published in the year 2015, the petitioner's name was appearing, no objective material was placed before him to arrive at any independent conclusion. If the petitioner was indeed anxious and was knowing the fact of deletion of his name from the provisional list of voters, he ought to have annexed

with his objection some documents to demonstrate *prima facie* his claim to the membership of the society. Not only this but even before the Returning Officer, as is mentioned in the last paragraph of the order in spite of having participated in the inquiry, the petitioner had not produced any other document to substantiate his claim of being a member of the society.

7. If the Returning Officer was expected to take the decision in the situation he was in, when the Assistant Registrar and even the Secretary of the Society had submitted a report specifically mentioning that the petitioner was not a member of the society, in my considered view, that was appropriate, in the facts and circumstances of the case for him, to reject the objection.

8. This is not to say that the claim of the petitioner is either false or erroneous. It is only rejection of his objection in respect of deletion of his name from the voters' list that has been under consideration. He may at an appropriate stage assert his right and seek appropriate declaration. At this juncture, in my considered view, when disputed questions of facts are being raised, it would not be appropriate to cause any interference.

9. The writ petition is disposed of.

[MANGESH S. PATIL]
JUDGE

arp/