

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

WRIT PETITION NO. 6706 OF 2022

Mahendra Bapusaheb Gund

....Petitioner

Versus

The State of Maharashtra
and others

....Respondents

Mr. Aniruddha A. Nimbalkar, Advocate for petitioner.

Mr. P. S. Patil, Addl. G. P. for respondent nos. 1, 3 to 6.

Mr. A. B. Kadethankar, Advocate for respondent no. 2.

**CORAM : DIPANKAR DATTA, C.J. &
RAVINDRA V. GHUGE, J.**

DATED : JULY 04, 2022.

PER COURT :

1. By instituting this writ petition dated 28th June, 2022, the petitioner takes exception to the inclusion of the names of the respondents 8 to 24 (hereinafter "private respondents") in the final voters' list for Ward No. 1 of village panchayat Kuldharan-Supekarwadi, Tq. Karjat, Dist. Ahmednagar for election for the period 2022-2027.

2. According to the petitioner, the private respondents are residents of Ward No. 4 and, therefore, their names ideally

ought to have been included in the final voters' list for such ward. Having noticed that in the provisional voters' list the names of the private respondents have been included in Ward No. 1, the petitioner had raised an objection. However, allegedly, such objection has not been disposed of by communicating to the petitioner any written order. In such circumstances, it is prayed that the decision of the official respondents to include the names of the private respondents in the final voters' list pertaining to Ward No. 1 be set aside and that the official respondents be directed to incorporate the names of the private respondents in the final voters' list pertaining to Ward No. 4 of the concerned village panchayat.

3. We have heard learned advocates appearing for the parties at some length.

4. According to Mr. Nimbalkar, learned advocate for the petitioner, the objection was raised by the petitioner in terms of the provisions contained in the Registration of Electors Rules 1960 (hereafter '1960 Rules') and that it is the duty of the Electoral Officer to consider and dispose of the petitioner's objection in accordance with the provisions of the 1960 Rules.

5. *Per contra*, Mr. Kadethankar, learned advocate appearing for the respondent no. 2, contends that the 1960 Rules are not applicable insofar as the present grievance is concerned.

6. We need not examine the aspect of applicability of the 1960 Rules, as raised by Mr. Kadethankar. Assuming that the 1960 Rules are applicable, we do not see any reason to hold that the petitioner is entitled to any benefit thereof. Rule 13 of 1960 Rules provides that every objection to the inclusion of a name in the electoral roll shall be in Form 7. We have looked into Form 7 as well as the objection that was lodged by the petitioner on plain paper. It is clear that the objection does not appear to have been lodged in Form 7. Even if the substance is to be looked at and not the form, we find that the objection of the petitioner *qua* the particulars that Form 7 requires to be incorporated are absent; hence, the objection appears to be incomplete and, therefore, we hold that it was not even required to be looked into by the Electoral Officer. The contention that the 1960 Rules have been followed in the breach, therefore, is without any substance and, accordingly, stands rejected.

7. That apart, we have looked into the documents annexed

to the writ petition and Exhibit 'F' collectively in particular. We find that the private respondents acknowledged that they have their ancestral properties in Ward No. 4, but because of its dilapidated condition, they have been residing in Ward No. 1; not only that, even for the previous election, their names were included in the voters' list for Ward No. 1.

8. Having regard to such specific statement made by the private respondents, which we have no reason to disbelieve in the absence of any contrary evidence being placed on record, we fail to comprehend as to how the petitioner could succeed even on merits that the names of the private respondents ought to have been included in the voters' list for Ward No. 4 and not for Ward No. 1.

9. Finally, we are left to consider the decisions cited by Mr. Kadethankar, delivered by a coordinate Bench of this Court at its principal seat in **Writ Petition No. 3673 of 2020** (Suresh Nagnath Adsul Vs. Talathi, Village Shelgaon (R), Tal. Barshi, Dist. Solapur and others) and **Writ Petition No. 3674 of 2020** (Milind Maryappa Mule and another Vs. Talathi, Village Hotagi Station, Tal. South Solapur, Dist. Solapur and others), both decided on 12th January, 2021. The coordinate Bench of

this Court, in the similarly worded decisions, took into consideration the decision of the Supreme Court in the case of **Anugrah Narain Singh and another Vs. State of U. P. and others**, reported in (1996) 6 SCC 303 and declined to interfere. The decision in **Anugrah Narain Singh** (supra) reaffirmed the law laid down by the Supreme Court in the case of **Lakshmi Charan Sen Vs. A.K.M. Hassan Uzzaman**, reported in (1985) 4 SCC 689, that an election cannot be allowed to be stalled on the complaint of a few individuals, for, such stalling would cause grave injustice to other voters having the right to elect representatives to the local bodies. In fact, the decision in the case of **Anugrah Narain Singh** (supra) referred to the conclusions recorded by the Court in an order dated 30th August, 1982, which formed part of the decision in **Lakshmi Charan Sen** (supra), to the effect that no High Court in exercise of its powers under Article 226 of the Constitution shall pass any order, interim or otherwise, having the tendency or effect of postponing an election that is reasonably imminent and in relation to which its writ jurisdiction is invoked and that imminence of the electoral process is a factor which must guide and govern the passing of orders in the exercise of the High Court's writ jurisdiction. The Court emphasized that "the more imminent such process, the greater ought to be the reluctance

of the High Court to do anything, or direct anything to be done, which will postpone that process indefinitely by creating a situation in which, the Government of a State cannot be carried on in accordance with the provisions of the Constitution". The High Courts were also urged to bear in mind self-imposed limitations on their power to act under Article 226, by refusing to pass orders or give directions which will inevitably result in an indefinite postponement of elections.

11. Bearing in mind such position of law as well as having regard to the fact that the election notification is due to be published tomorrow, thereby signifying that the election process is imminent, we are left with no alternative but to dismiss the writ petition.

12. The writ petition stands dismissed. There shall be no order as to costs.

[RAVINDRA V. GHUGE, J.]

[CHIEF JUSTICE]