

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6834 OF 2022

Munir Abdul Shaikh

-- PETITIONER

VERSUS

**The State of Maharashtra,
Through its Secretary and others**

-- RESPONDENTS

Mr. H.U. Dhage, Advocate for the petitioner.

Mr. S.K. Tambe, AGP for State.

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

Mr. Alok Sharma, Standing Counsel for respondent No.4.

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

DATED : JULY 07, 2022

PER COURT :

The petitioner, by instituting this petition, takes exception to an order dated 21.06.2022 by which the Authorized Officer of the State Election Commission has spurned the petitioner's request for inclusion of his name in the voters' list for the ensuing Gram Panchayat elections.

2. The impugned order is at page 25 of the writ petition. We have read the impugned order. It suggests that the

petitioner's name was not included in the electoral roll of the Maharashtra Legislative Assembly elections conducted in 2019 and, therefore, his name cannot be included in the voters' list for the Gram Panchayat elections.

3. We have heard Mr. Dhage, learned advocate appearing for the petitioner.

4. Our attention has been invited to section 12 of the Maharashtra Village Panchayats Act. For facility of convenience, section 12 is quoted as under: -

"12. List of voters - (1) The electoral roll of the Maharashtra Legislative Assembly prepared under the provisions of the Representation of the People Act, 1950 (XLII of 1950), and in force on such day as the State Election Commissioner may be order notify in this behalf for such part of the constituency of the Assembly as is included in a ward or a village shall be the list of voters for such ward or village.

(2) An officer designated by the State Election Commission in this behalf shall maintain a list of voters for each such ward or village."

5. It is the admitted case of the petitioner that his name

did not figure in the electoral roll of the Maharashtra Legislative Assembly for the elections that were last conducted in 2019. In view of the provision in section 12 of the Maharashtra Village Panchayats Act, we are of the considered view that the Authorized Officer was not empowered to include the name of the petitioner in the voters' list for the ensuing panchayat elections. The order is unexceptionable.

6. At this stage, it is submitted by Mr. Dhage by referring to section 22 of the Representation of the People Act, 1950 that the name of the petitioner could not have been excluded from the electoral roll of the Maharashtra Legislative Assembly without affording any opportunity of hearing to him. The submission, according to us, is one in desperation. If indeed exclusion of the petitioner's name from the electoral roll has occasioned without extending an opportunity of hearing, it was obligatory for the petitioner to have challenged such exclusion immediately when he was deprived of his voting right at the Assembly elections. At this late

stage, we are not inclined to accept the contention of the petitioner that there has been a violation of the statutory mandate and, therefore, he ought to be allowed to vote at the Gram Panchayat elections.

7. No case for interference having been set up, we decline to interfere. The writ petition stands dismissed. No costs.

[RAVINDRA V. GHUGE, J.]

[CHIEF JUSTICE]