

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

944 WRIT PETITION NO.7201 OF 2022

APPARAO LAXMANRAO SHINDE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Ashtekar Raviprasad K.
AGP for Respondents/State : Mr. K.B. Jadhavar
Advocate for R/2 : Mr. Ajit Kadethankar
...

CORAM : M.G. SEWLIKAR, J.
DATE : 27th July, 2022

PC.:-

Heard learned counsel for the petitioner Shri Ashtekar, learned counsel Shri Kadethankar for the State Election Commission and Shri Jadhavar learned AGP for the respondent nos.1, 3, 4 and 5.

2. This petition is filed challenging the formation of wards. Learned counsel for the respondent no.2-Chief Election Commissioner placed reliance on the judgment in the case of **Anant s/o Baburao Golait (Gahilot) V/s. The State Election Commission of Maharashtra and others** (Writ Petition No.6765/2022) for the proposition that formation of ward for elections to the Municipal Councils cannot be challenged in writ petition as it amounts to commencement of election process. He submitted that this ground can be

agitated in the election petition in terms of the judgment of **Anant s/o Baburao Golait** cited (supra).

3. Learned counsel for the respondent no.2 further submits that the election commission has moved ahead and declared reservation programme also. Therefore, at this stage no relief stalling the election process can be granted.

4. In the case of **Anant s/o Baburao Golait** cited (supra) the Division Bench of this Court quoted paragraphs 28 and 34 of Supreme Court in the case of **Suresh Mahajan V/s. The State of Madhya Pradesh and Anr.** (*Writ Petition (Civil) No. 278/2022*) decided on 10th May, 2022 thus:

“28. We were also informed by the learned counsel appearing for the Madhya Pradesh State Election Commission during the course of arguments that some writ petitions are pending before the High Court in which interim orders have been passed and that may come in the way of the State Election Commission to notify the election programme. In that regard, we make it clear and also direct that the State Election Commission must abide by the directions and observations in this order uninfluenced by any order of the High Court or the Civil Court on the subject of elections of the concerned local self-government, as the case may be. If any order passed or to be passed hereafter by the High Court or the Civil Court in the State of Madhya Pradesh, is in conflict with the directions given by this Court, the same shall be deemed to have been

superseded in terms of this order and not to be acted upon without the prior permission of this Court.

31. We also make it clear that this order and directions given are not limited to the Madhya Pradesh State Election Commission/State of Madhya Pradesh; and Maharashtra State Election Commission/State of Maharashtra in terms of a similar order passed on 04.05.2022, but to all the States/Union Territories and the respective Election Commission to abide by the same without fail to uphold the constitutional mandate.”

5. From these observations of the Hon’ble Supreme Court it is clear that these observations are applicable to the State of Maharashtra also. Therefore, no order which will amount to stalling the election process can be passed. In this view of the matter, the writ petition is not maintainable and is dismissed accordingly.

6. Learned counsel Shri Ashtekar submits that he may be given liberty to agitate this point of formation of ward in the election petition. He has the liberty to agitate all the issues / points as permissible in law.

[M.G. SEWLIKAR, J.]