

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

921 WRIT PETITION NO.10186 OF 2022

ROHIDAS ALIAS BABAN TUKARAM ZAMBARE
VERSUS
THE STATE ELECTION COMMISSION THROUGH COLLECTOR /
AUTHORIZED OFFICER AND OTHERS

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Advocate for Petitioner : Mr. Vithal M. Chate
Advocate for Respondent No.1 : Mr. Ajit B. Kadethankar
AGP for Respondents: Ms. M.A. Deshpande

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**CORAM : MANGESH S. PATIL AND
Y. G. KHOBRAGADE, JJ.**

DATE : 22.11.2022

PER COURT :

The petitioner is seeking following relief :

B. By issuing writ of mandamus or any other writ, order or directions in the like nature, the respondent No.2 may please be directed to publish final notification with regard to the ensuing Grampanchayat Election of Village Hingani, Tq. Ashti, Dist. Beed as per the report submitted by Village Talathi dated 10.03.2022.

2. The learned advocate for the petitioner submits that in blatant violation of the directions in the Bombay Village Panchayats (Number of Members, Divisions into Wards and Reservation of Seats) Rules, 1966, wards have been formed. Though the authority initially accepted the errors when the petitioner had approached them, without indulging in verifying the facts and undertaking any further scrutiny, the wards are being formed. He submits that though the elections are about to be held, the relief being

claimed is in aid of conducting fair election and this Court should exercise the powers under Article 226 of the Constitution of India. Learned advocate for the petitioner relied upon the following judgments :

- a. **Baburao Kalu Koli Vs. State of Maharashtra & Ors.;**
2008 (1) AIR BOM R 763
- b. **Bhagwan Khushal Patil and Anr. Vs. State Election Commission through the Collector & Ors.;** **2012 (5) Bom.C.R. 411**

3. The learned AGP submits that already the final notification under Rule 5 regarding formation of wards has been published even before filing of the petition and considering the relief being claimed, without there being any challenge to the final notification, the petitioner cannot be heard.

4. The learned advocate Mr. Kadethankar for the State Election Commission submits that the elections are being conducted in view of the directives of the Supreme Court, in an expeditious manner. The petitioner cannot be allowed to create any obstacles. He would further point out that this Court in similar set of facts has taken a view that issuing any direction for reconsidering formation of wards at this juncture without hearing all the voters would have the effect of causing obstruction in their rights even when they are comfortable with the formation of wards.

5. At the outset, it is necessary to note that though the petitioner is coming out with a grievance of formation of wards not in accordance with the Rules (supra), the prayer being made (supra) in fact was not available to be made without questioning the legality and validity of the final notification published in August 2022, even before the petition was filed in

September 2022. It is therefore apparent that a final notification has already been issued under Rule 5 and is in place and would be the basis for impending election. Even the election program has been published. There are directions of the Supreme Court to hold the elections expeditiously in the matter of **Rahul Ramesh Wagh Vs. The State of Maharashtra and Ors.**; (Special Leave to Appeal (C) No.19756/2021 dated 20.07.2022).

6. The petitioner is seeking this Court to invoke the powers of this Court under Article 226. A full bench of this Court in the matter of **Karmaveer Tulshiram Autade and Ors. Vs. The State Election Commission Mumbai and Ors.**; 2021 (2) Mh.L.J. 349 has already taken a view that the relief which would have the effect of stalling or obstructing the elections which are eminent cannot be entertained under Article 226 of the Constitution of India.

7. The Writ Petition is dismissed.

(Y. G. KHOBRADE, J.)

(MANGESH S. PATIL, J.)