

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

1001 WRIT PETITION NO.11752 OF 2022

Sunil Shikaran Dhapate
Age : 44 years, Occu: Agril,
R/o. Bhatumba, Tq. Kaij, Dist. Beed.

... **PETITIONER**

VERSUS

1. The State Election Commissioner
through Chief Election Commission,
First Floor, New Administrative Building,
Hutatma Rajguru Chowk, Madam Cama
Road, Mumbai-400032.
2. The District Collector &
District Election Officer, Beed,
District Beed.
3. The Tahasildar and
Taluka Election Officer
(For election of Village Panchayat)
Kaij, Tq. Kaij, Dist. Beed.

... **RESPONDENTS**

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Advocate for Petitioner : Mr. Balbhim R. Kedar
Advocate for Respondent No.1 : Mr. A.B. Kadethankar
AGP for Respondent Nos.2 and 3/State : Mr. S.B. Yawalkar

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

DATE : 29.11.2022

ORDER (MANGESH S. PATIL, J.) :

Heard. Rule. Rule is made returnable forthwith. At the joint request of the parties, the matter is heard finally at the stage of admission.

2. The petitioner is seeking following reliefs:

- “B. By issuing writ of certiorari or any other appropriate writ, the communication issued by the Deputy Collector Beed on 10.11.2022 thereby communicating to the petitioner that the objection of the Petitioner is rejected by relying on the enquiry and communication made by the Tahasildar Kaij, without passing any reasoned order, may kindly be quashed and set aside.
- C. By issuing writ of mandamus or any other appropriate writ, the respondents may kindly be directed to forthwith reform the wards of village panchayat Bhatumba, strictly as per orders of the respondent No.2, statutory rules and the guidelines issued by the Respondent No.1.”

3. The petitioner's grievance is that though the election program has been published, the wards have not been formed in accordance with the directions of the respondent No.1 – the State Election Commission and Respondent No.2 - District Collector and District Election Officer. The wards has been formed unmindfully and in an illegal manner. When the circumstances were brought to the notice of the respondent No.3 who is the Tahsildar and Taluka Election Officer, he constituted a committee for inspecting and verifying the facts of formation of wards but the committee did not submit any report and on the contrary the respondent No.3 - Election Officer has informed him that the inquiry would be conducted after 23.12.2022 by which time the election would be over.

4. Mr. Kadethankar for the State Election Commission would submit that by its order dated 27.01.2022 framed a program in respect of formation of wards. It was a draft of ward formation published on 25.02.2022. The objections were invited till 04.03.2022. The

petitioner did not raise any objection. The objection raised by one Ram Dharmaraj Jogdand within stipulated time were duly considered and a final ward formation was published on 27.05.2022. Since the petitioner has not raised any objection for formation of ward, his grievance at this belated stage when the election process has begun cannot be considered.

5. Learned AGP would submit that under the guise of challenging formation of ward the petitioner is essentially raising objection regarding voters list. Pursuant to the election program declared with effect from 13.10.2022 a provisional voters list was published and the petitioner raised the objection regarding it on 18.10.2022. Pursuant to the petitioner's objection an inquiry was conducted and the objection was rejected on 21.10.2022 and the final voters list has also been published on that day. It is only because of the persistence of the petitioner with his objection that the respondent No.3 - Election Officer formed a committee, however, in any event objection to the formation of ward cannot be entertained at this belated stage.

6. It is an admitted fact and abundantly clear from the record that the objections to the formation of wards were to be raised pursuant to a draft published by a stipulated date strictly in accordance with the orders of the State Election Commission by virtue of its notification dated 27.01.2022, after publication of draft on 25.02.2022 till 04.03.2022. Admittedly, the petitioner did not raise any objection to

the formation of ward during that period and the wards have been finalized by 27.05.2022. Therefore in the absence of the petitioner having raised any objection to the formation of ward within that window, for this reason alone the petition is liable to be dismissed.

7. True it is that due to his persistence with the objection the respondent No.3 - Election Officer seems to have constituted some committee for inquiring into the aspect of formation of ward, however, in our considered view any such exercise would be *per se* illegal and *de hors* the mandate of the State Election Commission which alone is the authority which is empowered to conduct the elections under Article 243-K of the Constitution of India read with the provisions of the Maharashtra Village Panchayats Act, 1958.

8. Admittedly, the objection to the voters list raised by the petitioner has also been rejected and he has not put up any challenge to that.

9. Again, the election program has already been published and the stage of filling up nomination has also begun. It could be directly in conflict with the mandate of Article 243-O to pass any order in exercise of Article 226 of the Constitution of India which would have the tendency of prolonging the election process, more so when the elections are being held pursuant to the directions of the Supreme Court 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).

10. The Writ petition is dismissed.
11. We make it clear that it would always be open for the petitioner to put up a challenge if a remedy under Section 15 of the Maharashtra Village Panchayats Act, 1959 is available to them.

(Y.G. KHOBRAGADE, J.)

(MANGESH S. PATIL, J.)