

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

926 WRIT PETITION NO.11843 OF 2022

SHAIKH NAJMA SHAIKH CHAND AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH
PRINCIPAL SECRETARY AND OTHERS

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Advocate for Petitioners : Mr. Taher Ali Quadri
AGP for Respondent No.1/State : Mrs. M.A. Deshpande
Advocate for Respondent No.2 : Mr. A.B. Kadethankar

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

DATE : 29.11.2022

ORDER (MANGESH S. PATIL, J.) :

Heard the learned advocate Mr. Quadri for the petitioners, learned AGP and the learned advocate Mr. Kadethankar for the respondent No.2 State Election Commission. The petitioners who are members of a nuclear family claimed that they are permanent resident of village Navholi Tq. Kej District Beed and seeking inclusion of their names in the final voters list of Grampanchayat Navholi, so as to enable them to participate in the ongoing election process.

2. The learned advocate Mr. Quadri for the petitioners submits that it is only because of the employment of the petitioner No.2 who was a Government Servant and posted in Vaijapur Taluka of Aurangabad district till his retirement in April 2018, that their names were included in the voters list of Grampanchayat Village Koli Tq. Vaijapur. They got their names

deleted and by moving an application on 10.10.2022 with the respondent No.4 Tahsildar Kej they requested for inclusion of their names in the voters list of Grampanchayat Navholi Tq. Kej and now are seeking such inclusion. Mr. Quadri also submits that the petitioners' request was strictly in accordance with Section 23 of the Representation of the People Act, 1950 and was available to be considered till the last date for nomination prescribed by the election program as is stipulated therein.

3. Learned advocate Mr. Kadethankar submits that the election notification has been declared on 04.10.2022 and draft voters list was published on 13.10.2022. Objections were to be taken by 18.10.2022 and the final voters list was also published on 21.10.2022. Election program has been published on 09.11.2022 and the petitioners for the first time have raised objections to the voters list on 14.11.2022 beyond the time line prescribed in the election program. The petitioners are seeking inclusion of their names in the voters list by referring to Section 23 of the Representation of the People Act, 1950 but that is not applicable to the elections to the local bodies.

4. We have considered the rival submissions. Section 12 of the Maharashtra Village Panchayat Act requires preparation of electoral rolls in accordance with the rolls published for the Legislative Assembly prepared under the provisions of the Representation of the people Act, 1950 as on the date notified by the State Election Commission. Admittedly, by virtue of the notification issued by the respondent No.2 – the State Election Commission

such cut off date was 31.05.2022. Admittedly, as on that day petitioners' name were not included in the Legislative Assembly Roll in respect of Kej constituency. Section 23 of the Representation of People Act apparently is only in respect of the constituency as defined under that Act and may not be applicable to the constituency of village panchayat or the local bodies.

5. That apart, admittedly the election program was declared and the time line for raising the objections for draft voters list was between 13.10.2022 and 18.10.2022. Even the final voters list was published on 21.10.2022. The petitioners had not raised any objection within those days and have raised the objection only after final voter list was published on 21.10.2022, by way of their objection dated 14.11.2022. The election program has already been published on 18.11.2022. Even the process of filing nominations has started with effect from 28.11.2022. Any direction at this stage regarding inclusion of petitioners' names in the voter list would have a tendency to protract the election program which cannot be done by invoking the powers under Article 226 of the Constitution of India.

6. The Writ petition is devoid of merit and is dismissed.

7. We make it clear that it would always be open for the petitioners 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.)