

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.14683 OF 2022

Sou. Manisha Arun Patil : Petitioner.
Versus
The State of Maharashtra and ors. : Respondents.

Mr. S R Ganbavale a/w Mr. Shubham K Kanade for the Petitioner.
Mrs. R A Salunkhe, AGP for Respondent Nos.1 to 4.
Mr. Sachin Shetye a/w Ms. Sarika Shetye and Mr. Vikrant Dere for Respondent
Nos.2 and 3.

CORAM : S. V. GANGAPURWALA &
ARIF S. DOCTOR, JJ.
DATED : 30th NOVEMBER 2022

P.C.

1 We have heard the learned counsel for the Petitioner and the
Respondents.

2 Mr. Ganbavale the learned counsel for the Petitioner submits that
the name of the Petitioner appeared in the voters list published for the election
of legislative assembly. The voters list of legislative assembly is always
considered for the purpose of election of the members of grampanchayat. The
learned counsel for the Petitioner submits that the Petitioner had no reason to
believe that the name of the Petitioner would not find place in the voters list
published for the election of the members of grampanchayat. However, after
the final voters list that was published, the Petitioner got knowledge that the

name of the Petitioner does not appear in the voters list for the election of the members of grampanchayat. The Petitioner immediately approached Respondent No.3 on 24th November 2022. On 25th November 2022 Respondent No.5 accepted that a mistake has occurred in not mentioning the name of the Petitioner in the voters list. According to the learned counsel, under rule 11(2A) of the Bombay Village Panchayats Election Rules, 1959, the returning officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character. As the name of the Petitioner appeared in the valid voters list of the legislative assembly, the deletion of name of the Petitioner is required to be considered as technical defect and thus cannot be said to be substantial in nature. The Petitioner is not at fault. The Petitioner cannot be made to suffer on account of fault of the authorities concerned. The last date of filling the nomination is 02nd December 2022. The Respondents authorities can be directed to include the name of the Petitioner in the voters list and the Petitioner be given an opportunity to contest the election of member of grampanchayat of Kalamba, Taluka Karveer, Dist. Kolhapur.

3 The learned counsel for the Respondent Nos.2 and 3 submits that the election program has already been declared. The name of the Petitioner did not appear in the provisional voters list. The Petitioner did not raise objection to her name not appearing in the voters list. Final voters list was published on 21st October 2022 and election program is published on 18th November 2022.

This court may not interfere with the process of election.

4 We have considered the submissions. The election program for the election of member of grampanchayat is published on 18th November 2022. The nomination papers to be filled from 28th November 2022 to 02nd December 2022.

5 Section 13 of the Maharashtra Village Panchayats Act specifically provides that every person whose name is in the list of voters shall, unless disqualified under this Act, or any other law for the time being in force, be qualified to vote at the election, and as per subsection (2) of Section 13 every person whose name is in the voters list is entitled to be elected as a member. Subsection (2) of Section 13 further provides that no person whose name is not entered in the list of voters for such village shall be qualified to be elected as a member of the village. Subsection 2 of 13 does not permit the nomination papers to be filled by a person whose name is not entered in the list of voters for such village.

6 Admittedly in the provisional voters list published on 13th October 2022 the name of the Petitioner did not appear. No objection was raised by the Petitioner to the provisional voters list. The final voters list is published on 21st October 2022.

7 The election program is declared on 09th November 2022.

8 Article 243(O) of the Constitution of India provides that no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the legislation of a State.

9 In light of above, at this stage, we cannot come to the aid of the Petitioner. Needless to state that the Petitioner is entitled to take up appropriate proceedings as may be permissible under law.

10 Writ Petition is disposed of. No costs.

[ARIF S. DOCTOR, J]

[S. V. GANGAPURWALA, J]