

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 4286/2022

(DHANUSING BHIVSING NAIK (PAWAR) @ D.B.NAIK **VERSUS** THE STATE ELECTION COMMISSION,
MUMBAI & OTHERS)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri R.D. Wakode, counsel for the petitioner.
Mrs. K.S. Joshi, In-charge Government Pleader for the R-State.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE : JULY 27, 2022.

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The petitioner who is a voter registered at Panchayat Samiti Mahagaon has filed the present writ petition with following prayers:-

“(i) Quash and set aside the impugned final notification dated 27.06.2022 published by the respondent no.3-Collector, Yavatmal placed at Annexure-J to the extent of inclusion of village Wakodi in Electoral Division No.61 Mudana, in the interest of justice;

(ii) Further direct the respondents to include Village Wakodi in Electoral Division No.60 Sawna in the Final Notification dated 27.06.2022 published by the respondent no.3-Collector, Yavatmal placed at Annexure-J in the interest of justice.”

The learned counsel for the petitioner submits that the petitioner does not seek to interdict the election process and merely seeks inclusion of Village Wakodi in Electoral Division No.61.

We find that on 22.07.2022 the State Election Commission has issued a notification prescribing the revised draw of lots for reservations with regard to twenty five Zilla Parishads and 284 Panchayat Samitis, elections for which are to be held in 2022. A similar issue has been considered by the Division Bench in **Writ Petition No. 6765 of 2022** with connected writ petitions [*Anant Baburao Golait (Gahilot) Versus The State Election Commission of Maharashtra & Others*] at Aurangabad Bench and in paragraph 27 it has been observed as under:-

“27. It is well known that a Court exercising plenary jurisdiction under Article 226 of the Constitution ought to issue a writ which would further public interest and not thwart it. What emerges, giving due regard to the law laid down by the Supreme Court in State of Goa (supra) Anugrah Narain Singh (supra) and Lakshmi Charan Sen (supra) is that an otherwise imminent election process, therefore, need not be derailed merely because there are certain disgruntled voices who wish to have the wards formed in the manner they like, while disligning the formation brought about by the State Election Commission. If there be any genuine legal grievance which calls for being addressed, the forum prescribed by law has to be approached.”

Thus assuming the grievance of the petitioner to be genuine, it is only the forum prescribed by law that has to be approached and not this Court under Article 226 of the Constitution. The writ petition is therefore not entertained. The points raised in the writ petition are kept open. The proceedings are disposed of. No costs.

(URMILA JOSHI-PHALKE, J.)

(A. S. CHANDURKAR, J.)

APTE