

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

WRIT PETITION NO.7707/2022.

Meena Shriram Bochara and another -**VERSUS-** District Collector, Akola and another.

WRIT PETITION NO.7708/2022.

Vikram Murlidhar Tayade.-**VERSUS-** District Collector, Budlhana and another

WRIT PETITION NO.7709/2022.

Sau.Pooja Aashish Waghmare -**VERSUS-** The Maharashtra State Election Commission and ors.

WRIT PETITION NO.7710/2022.

Virendra Kaluram Chavan .-**VERSUS-** The Returning Officer, Gram Panchayat and another.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

S/Shri R. Karode, C.R. Sharma & T. Deshpande, Advocates for Petitioners.
Shri K.L.Dharmadhikari, Ms.T.Khan, A.G.Ps. for Respondent State.

CORAM : VINAY JOSHI, J.

DATE : DECEMBER 07, 2022.

Heard learned Counsel present for the parties.

2. These petitions pertain to challenge of rejection or acceptance of nomination forms by the Returning Officer for Gram Panchayat elections.

3. At the outset maintainability of these writ petitions has been seriously challenged by respondent State in the light of recent decision of Full Bench in case of **Karmaveer Tulshiram Autade and others .vrs. State Election Commission and others –**

2021 [2] Mh.L.J. 349. It is contended that in view of specific question framed and answered by the Full Bench, these petitions are not maintainable.

4. Petitioners have particularly challenged the orders passed by the Returning Officer rejecting their nomination forms for the Gram Panchayat Elections. Only in Writ Petition No.7709/2022, the challenge is somewhat distinct about acceptance of nomination by the Returning Officer, despite objection. Thus, the core issue is about acceptance or rejection of nomination forms pertaining to the elections of Gram Panchayat.

5. Respondents have declared the election program for the elections to various Gram Panchayats, including the concerned Gram Panchayats. As per the election program on 18.11.2022, notice of election program was published. Nomination forms were to be filled by the candidates between 28.11.2022 to 02.12.2022. Scrutiny of the nomination forms was to take place on 05.12.2022 and withdrawal of candidature was till 07.12.2022. Final list of candidates and allotment of symbols was to be done on 07.12.2022, and polling date is scheduled on 18.12.2022. Counting of votes is fixed on

20.12.2022, followed by result.

6. In Writ Petition No.7709/2022, objection was raised to the candidature of respondent no.4 therein, on account of having third child after the datum line. It is contended that her nomination was illegally accepted. So far as rest of the petitions are concerned, the same pertains to rejection of nomination forms by the Returning Officer in the course of scrutiny.

7. In above referred Full Bench decision of this Court in case of *Karmaveer Autade*, a specific question regarding maintainability of the writ petition seeking to challenge an order of rejection of nomination paper to contest gram panchayat elections, was framed and answered. The Full Bench has categorically held that writ petition under Article 226 of the Constitution of India against the orders passed by the Returning Officer, rejecting or accepting nomination paper is not maintainable in the light of settled position of law right from the judgment of Supreme Court in case of **N.P. Ponnuswami .vrs. Returning Officer, Namakhal and others – AIR 1952 SC 64**. The Full Bench has analyzed the position of law as discussed in earlier judgment and reiterated that Writ Petition challenging the order of Returning Officer is not maintainable in view of specific

bar created under Article 243-O[b] of the Constitution of India and Section 15A of the Maharashtra Village Panchayat Act.

8. Besides that, this Court in a decision in case of **Gazala Bi Saddam Shah .vrs. The Collector, Buldhana and others – Writ Petition No.85/2021 dated 08.07.2021**, has once again taken stock of all earlier decisions in the field including the above referred Full Bench decision and reiterated that Petition is not maintainable. Petitioners are unable to convince as to how these decisions would not apply to their cases.

9. The learned Counsel appearing for petitioners in Writ Petition Nos.7707 and 7708 of 2022, has relied on a decision of this Court in case of **Punjabrao Appasaheb Pol .vrs. Assistant Registrar, Cooperative Societies – 2022 [2] Mh.L.J. 737**, to support the claim of maintainability. The said decision pertains to the elections of Maharashtra Agriculture Produce Marketing Committee, and thus, being different and distinct fact, it would not assist in any manner.

10. Since the issue of maintainability is squarely covered by the above referred decision of Full Bench, I have no hesitation to hold that the present petitions are not maintainable and accordingly they are dismissed. However, it is made clear

that all contentions raised by the respective petitioners, are kept open to be canvassed in appropriate proceedings.

JUDGE