

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**WRIT PETITION NO.8006/2022**

Ananta s/o Ganpat Kamble

Vs.

The State Election Commission, through its Secretary, Maharashtra State, Mumbai  
and others

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

Court's or Judge's orders

-----  
Shri V.B. Gawali, Advocate for petitioner  
Shri K.L. Dharmadhikari, AGP for respondent no.2  
-----

**CORAM : VINAY JOSHI, J.**

**DATED : 16/12/2022**

Heard.

2. The petitioner's nomination form for the General Election for Gram Panchayat, Morgavhan has been rejected which is the subject matter of challenge.

3. It is petitioner's contention that he has applied to the electoral registering authority for deletion of the name of one Bhagwat Ganpat Gawali. However, mistakenly, petitioner's name has been deleted. Since petitioner's name was deleted from the assembly voters list, therefore, it was not included in the voters list for the Gram Panchayat. In consequence, the petitioner's nomination was rejected which is the subject matter of challenge.

4. At the outset maintainability of this writ petition 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, this petition is not maintainable.

5. Respondents have declared the election program for the elections to various Gram Panchayats, including the concerned Gram Panchayat. 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 above referred Full Bench decision of this Court in case of *Karmaveer Autade (supra)*, 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.

7. 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.

8. 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 petition is not maintainable and accordingly dismissed. However, it is made clear that all contentions raised by the petitioner, are kept open to be canvassed in appropriate proceedings.

**JUDGE**