

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

**WRIT PETITION NO. 9122 OF 2022
WRIT PETITION NO. 9143 OF 2022
WRIT PETITION NO. 9145 OF 2022**

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WRIT PETITION NO. 9122 OF 2022

Sakhubai Sakharam Khairnar .. Petitioner
Age. 64 years, Occ. Household,
R/o. Khudane, Tq. Sakri,
Dist. Dhule.

Versus

1. Gangabai Nanabhau Shewale .. Respondents
Age. 53 years, Occ. Household,
R/o. Khudane, Tq. Sakri, Dist. Dhule.
2. The Election Returning Officer
Khudane, Tq. Sakri, Dist. Dhule.
(Circle Officer, Nizampur)
3. Village Panchayat,
Khudane, Tq. Sakri, Dist. Dhule.
Through its Gramsevak.

**WITH
WRIT PETITION NO. 9143 OF 2022**

Varsha Parag Gawale, .. Petitioner
Age. 27 years, Occ. Household,
R/o. Khudane, Tq. Sakri, Dist. Dhule.

Versus

1. Pramila Devidas Shewale .. Respondents
Age.60 years, Occ. Household,
R/o. Khudane, Tq. Sakri, Dist. Dhule.
2. The Election Returning Officer
Khudane, Tq. Sakri, Dist. Dhule.
(Circle Officer, Nizampur)
3. Village Panchayat,
Khudane, Tq. Sakri, Dist. Dhule.
Through its Gramsevak.

**WITH
WRIT PETITION NO. 9145 OF 2022**

Godambai Gorakh Gawale .. Petitioner
Age. 57 years, Occ. Household,
R/o. Khudane, Tq. Sakri, Dist. Dhule.

Versus

1. Sharad Parashram Gawale .. Respondents
Age.53 years, Occ. Household,
R/o. Khudane, Tq. Sakri, Dist. Dhule.
2. The Election Returning Officer
Khudane, Tq. Sakri, Dist. Dhule.
(Circle Officer, Nizampur)
3. Village Panchayat,
Khudane, Tq. Sakri, Dist. Dhule.
Through its Gramsevak.

Mr.N.N. Desale, Advocate for the petitioners.
Mr.V.M. Jaware, Advocate for respondent No.1.
Mr.A.B. Kadethankar, Advocate for respondent No.2.
Mr.S.B. Pulkundwar, AGP for respondent/State.

CORAM : KISHORE C. SANT, J.
DATED : 19.07.2023

PC :-

01. Heard learned Advocate for the petitioners. The petitioners in these petitions are the persons against whom election petitions are filed by respondent No.1, bearing Dispute Nos.1/22, 2/22 and 3/22 in Writ Petition Nos. 9122/22, 9143/22 and 9145/22 respectively, which are pending before the Court of learned Civil Judge, Junior Division at Sakri. Written statements were filed by the respective petitioners. Evidence of the respondent was being recorded and at that stage it was realized that in the written statement the date of scrutiny of nomination paper is wrongly typed as 21.12.2020 instead of 31.12.2020. On realizing this, the petitioners filed application seeking amendment on 27.09.2022, only for correcting date of scrutiny of nomination papers. The applications were exhibited as Exh.53, 55 and 53 respectively. The learned CJJD by order dated 29.07.2022 rejected the applications stating that the applications are moved after framing of issues and the matter was at the stage of recording of evidence of the witnesses. It is also observed that the applications made after some delay, when the petitioners were knowing the dates.

02. The petitioners being aggrieved by the order have approached this Court. It is submitted that though the applications are styled as application for amendment, however, it is in-fact only seeking connection in the date of scrutiny of nomination. It is inadvertently typed as 21.12.2020 . In para No.17 of the written statement, it is submitted that in-fact in the complaint itself, the date of scrutiny of nomination papers is given as 31.12.2020. It is also a matter of record that the date of scrutiny of nomination papers was 31.12.2020. The learned CJJD, however, taking hyper-technical approach, has rejected the applications and it is prayed for quashing and setting aside the impugned orders and consequently allow the applications below Exh.53, 55 and 53 respectively.

03. The learned Advocate for the respondents vehemently opposes the petitions. He submits that the written statements were filed long back i.e. on 20.10.2022; whereas the applications are moved only on 29.07.2022. There is delay in filing the applications. The parties were aware of the dates. The petitioners have filed the application only when question was asked in the cross-examination to a witness that date of scrutiny of nomination paper was 21.12.2022. To wipe out this admission, the applications are filed. He has

prayed for rejection of the petitions.

04. This Court has considered the applications. It is seen that by way of the applications, what is prayed for is only permission to correct the date of scrutiny of nomination paper. There is no dispute about the scrutiny of nomination papers. In the complaint itself said date is mentioned. In-fact there is no any amendment sought by the petitioner. Correction of typographical error and thereby changing the date can never be said to materially affecting the pleading of the parties. When the date is accepted by all the parties, there is no question of changing any date or taking any admission. This Court, therefore finds that the learned CJJD has taken hyper-technical approach and rejected the applications. Though it is submitted by the learned Advocate for respondent No.1 that the amendment application is filed to protract the proceeding, however, this Court finds that care can be taken of this thing by directing the petitioners to carry out amendment within a period of one week from today and matters can be directed to be expedited. With this, the following order :-

ORDER

- (i) The Writ Petitions are allowed in terms of prayer clause (B).
- (ii) The amendment be carried out within one week from today.
- (iii) The learned Trial Judge is requested to complete the Trial by end of 31st March, 2024. The parties to co-operate the learned CJJD in expeditious disposal of the proceeding.

[KISHORE C. SANT, J.]