

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

WRIT PETITION NO.12815 OF 2023

1. Suhas Sukhalal Koli,
Age : 59 years, Occ : Agriculture,
R/o 45, Village Mhaiswadi,
Taluka Yawal, District Jalgaon.
2. Kajal Prakash Baviskar,
Age : 32 years, Occ : Household,
R/o 45, village Mhaiswadi,
Taluka Yawal, District Jalgaon.

...PETITIONERS

-VERSUS-

1. The State of Maharashtra.
Through it's Secretary,
Rural Development Department,
Mantralaya, Mumbai-32.
2. The District Collector,
Jalgaon, District Jalgaon.
3. The Ld. Sub Divisional Officer,
Faizpur Division, Faizpur,
Taluka Yawal, District Jalgaon.
4. The Ld. Tahsildar,
Tahsil Office, Yawal,
Taluka Yawal, District Jalgaon.
5. The State Election Commission,
Maharashtra State, Mumbai.
6. The Election Returning Officer,
Tahsil Office, Yawal,
Taluka Yawal, District Jalgaon.

7. The Election Commission of India.

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Advocate for the Petitioners : Shri Patil Jitendra Vijay
AGP for Respondents 1 to 4/State : Shri P.S. Patil
Advocate for Respondents 5 and 6 : Shri A.B. Kadethankar
Advocate for Respondent 7 : Shri Alok Sharma
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**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 13th October, 2023

ORAL JUDGMENT (*Per Ravindra V. Ghuge, J.*):-

1. Leave to add Respondent No.7/Election Commission of India, as Respondent No.7. Addition be carried out forthwith.

2. RULE. Rule made returnable forthwith and heard finally by the consent of the parties.

3. Both the Petitioners are permanent residents of village Mhaiswadi, Tq. Yawal, Dist. Jalgaon. On 05.01.2023, the State Election Commission prepared the voters list for Division – 283 Raver - 4 Legislative Assembly (General). The names of the Petitioners appeared at Sr.Nos.136 and 137 in the said list. It is undisputed that the State Election Commission, while preparing the voters list for the Gram Panchayat Election, bodily lifts

persons who are in the final voters list for the Legislative Assembly. In the present case, the cutoff date was 1st of July, 2023 for considering the names from the State Legislative Assembly Final Voters list.

4. On 30.04.2023, the names of these Petitioners disappeared from the voters list. They realized this fact after the draft voters list was published on 10.08.2023. On 18.08.2023, the Petitioners complained to Respondent No.7. A verification exercise was embarked upon by Respondent No.7 and after conducting a panchnama and verifying the records, Respondent No.7 realized that there was no reason for the names of these Petitioners to be deleted from the voters list. Hence, Respondent No.7 restored the status of these two Petitioners by entering their names in the voters list.

5. The Petitioners' grievance is that the final voters list for the Gram Panchayat Election at village Mhaiswadi was published on 25.08.2023. As a consequence, these Petitioners would not find their names in the voters list for the Gram Panchayat Election. The reason for deleting their names was 'Migration'. It is solemnly stated by the learned Advocate for the Petitioners, on instructions, that neither of them have migrated

from the said village.

6. The Petitioners make a solemn statement that they had never entered Form No.7 for seeking deletion of their names from the voters list.

7. In the above peculiar circumstances, we need to assess as to what would be the effect of the deletion of the Petitioners' names from the State Legislative Assembly voters list and what would be the impact of restoring the names of the Petitioners in the voters list, by Respondent No.7, after realizing a goof up.

8. It is obvious that the Petitioners are not at fault. They had never migrated from the said village Mhaiswadi. They had never applied for deletion of their names so as to be entered in any other voters list, if at all they had migrated elsewhere. As such, it is apparent that the deletion of the Petitioners' names from the voters list was not on account of any laches on their part. No ulterior or oblique motives are attributed to their conduct.

9. In the above backdrop, Respondent No.7 having restored the names of these Petitioners in the voters list, would signify that there was no reason for deletion of the Petitioners'

names from the voters list. The restoration would mean that their names were erroneously deleted from the voters list and as such, for all purposes, their names would continue to be carried in the said voters list. In these circumstances, it is deemed that the names of these Petitioners are continued in the electoral roll for the State Legislative Assembly Division- 283 Raver- 4.

10. The last aspect that needs to be considered if this Petition is to be entertained, is as to whether, the elections to the Gram Panchayat of village Mhaiswadi, would have to be delayed or postponed or interjected.

11. The learned Advocates representing the respective sides concede that if this Court is to allow this Petition, the elections would not be interjected or disturbed. 16th October, 2023, is the date for filling in the nomination forms. The Petitioners also point out an order dated 17.12.2020 passed by this Court in Writ Petition No. 8361/2020 (*Mangalabai Subhash Deore Vs. The State of Maharashtra and others*), wherein, this Court has allowed the Petition.

12. In view of the above, **this Writ Petition is allowed.** We direct the State Election Commission to include the names of the Petitioners in the valid voters list, as their inclusion in the

Maharashtra State Legislative Assembly (General) for Division – 283- Raver – 4, is deemed as on 01.07.2023. As such, the names of these Petitioners stand restored at Sr. Nos.136 and 137 from which, they were accidentally deleted. In the event, the said serial numbers are not available, their names would be added to the list and it shall be deemed that they are in the valid voters list from 30th April 2023 onwards and more specifically on 01.07.2023.

13. **Rule is made absolute in the above terms.**

14. Since this order would take time for being uploaded on the official website of the Bombay High Court, the parties shall act in view of this decision since the order having been dictated in open court.

kps (Y. G. KHOBRADE, J.) (RAVINDRA V. GHUGE, J.)