

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

923 WRIT PETITION NO.13894 OF 2023

SUSHILABAI MADHAV ANDALWAD
VERSUS
THE CHIEF ELECTION COMMISSIONER AND ANOTHER

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Advocate for Petitioner : Mr.U.B.Deshmukh
AGP for Respondent-State : Ms.R.P.Gaur
Advocate for Respondent / State Election Commission &
Returning Officer : Mr.Ajit B. Kadethankar

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CORAM : ARUN R. PEDNEKER, J.

DATE : 02.11.2023

P.C. :

1] Heard the learned counsel for the parties.

2] The Returning Officer has accepted the nomination form of the petitioner from wrong category i.e. 'General' category and the petitioner aggrieved thereby has filed the present Writ Petition.

3] Mr.Ajit B. Kadethankar, learned Standing Counsel for respondent / State Election Commission & Returning Officer has brought to my notice the Full Bench Judgment of this Court in the case of **Karmaveer Tulshiram Autade and others Vs. State Election Commission office and others**, reported in **2021 (2) Mh.L.J. 349**, at para 64 and 68 and submits that in case of acceptance / rejection of the

nomination, writ petition should not be entertained and granting relief claimed by setting aside the order of rejection is definitely a step to subserve the process of election and / or facilitate its completion in the sense enunciated in *Mohinder Singh Gill* and explained in *Ashok kumar*.

4] The learned counsel has also taken me through an order of this court dated 07.12.2022, passed in Writ Petition No.12359 of 2022, where this Court relied upon the full bench judgment of *Karmaveer*, as referred supra, has refused to entertain writ petition challenging the acceptance / rejection of nomination form.

5] The election process in the instant case is as follows :

The election programme of the panchayat declared on 06.10.2023. The dates of submission of nomination form was from 16.10.2023 to 20.10.2023. Date of scrutiny of nomination form was on 23.10.2023. Date of withdrawal of nomination form was on 25.10.2023. Date of allotment of symbols and the publication of final list of candidates contesting election is 25.10.2023. Date of election is 05.11.2023.

6] Mr.Ajit B. Kadethankar, learned standing

counsel for respondents / State Election Commission & Returning Officer submits that in view of the full bench judgment the remedy of election petition under section 15 of the Maharashtra Village Panchayats Act, 1959 is available to the petitioner.

7] The election to the panchayat is at an advanced stage and the bar to entertain writ petition under Article 243-O (b) of the Constitution of India read with Section 15 and 15-A of the Maharashtra Village Panchayats Act, 1959 would be applicable, as has been held in the above referred case of **Karmaveer**.

8] In view of the same, the writ petition is disposed of with liberty to the petitioner to challenge the impugned order before the appropriate authority in accordance with law. All contentions of the parties are kept open.

[ARUN R. PEDNEKER]
JUDGE

DDC