

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO. 6338 OF 2023

Aditya Zunjar Bhange

...Petitioner

Versus

Ajinath Bhagwat Mali and ors.

...Respondents

.....

Mr. Hrishikesh Shinde for the Petitioner.

Mr. Surel Shah i/b Mr. Rahul Kasbekar a/w Ms. Shivani Shinde for
Respondent No. 1.

Mr. A. P. Vanarse, AGP for Respondent Nos. 3 & 5.

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CORAM : N.R. BORKAR, J.

DATED : 9 JUNE 2023

P.C. :-

This petition takes exception to the judgment and order dated 9 February 2023 passed by District Judge-2, Barshi in Civil Miscellaneous Application No. 28 of 2022.

2. The petitioner had contested the general election of Madha Nagarpanchayat for the post of councillor from Ward No. 1. The result of the said election was declared on 19 January 2022 and respondent No. 1 was declared elected from the said ward. The result was thereafter published in Official Gazette on 28 January 2022.

3. On 9 March 2022, the petitioner had filed the election petition questioning the election of the respondent No. 1. According to the

petitioner, though the election petition was well within limitation in view of the direction issued by the Hon'ble Supreme Court in Miscellaneous Application No. 21 of 2022 and other connected matters, however, by way of abundant precaution, the application for condonation of delay was filed. It is stated that the learned District Judge erroneously rejected the said application by the order impunged.

4. I have heard the learned counsel for the petitioner, the learned counsel for the contesting respondent and the learned AGP for the respondent- State.

5. The limitation for filing election petition as per Section 21 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 is ten days from the date of publication of names of the councillors in the Official Gazette.

6. In the present matter following facts are not in dispute:

- “(i) 19 January 2022- Date of declaration of result,*
- (ii) 28 January 2022- Publication of the names of councillors in Official Gazette and*
- (iii) 9 March 2022- Filing of the election petition.”*

7. The Hon'ble Supreme Court by order dated 10 January 2022 in Miscellaneous Civil Application No. 21 of 2022 due to outbreak of the Covid-19 pandemic had issued the following directions in respect of limitation:

“I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.”

8. By the above order, the Hon’ble Supreme Court had directed that the period from 15 March 2020 till 28 February 2022 shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all judicial and quasi judicial proceedings and therefore the petition filed by the petitioner on 9 March 2022, was well

within limitation as it was filed within ten days from 28 February 2022.

9. Considering the above facts and circumstances, the order impugned is set aside.

10. The parties shall appear before the concerned Court on 26 June 2023. The concerned Court shall endeavour to decide the election petition as early as possible on its own merits.

11. The Petition is disposed of in above terms.

(N.R. BORKAR, J.)