

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**CIVIL APPELLATE JURISDICTION
WRIT PETITION No.2645 OF 2023**

Shri Sachin Shivaji Ghule and Ors. ...Petitioners

Vs.

**The State Election Commission,
Maharashtra State and Ors. ...Respondents**

Mr. Ashish S. Gaikwad a/w. Ms. Anjali S. Kolapkar for Petitioners

Mr. Akshay Pansar i/b. Sachindra B. Shetye for Respondent No.1, SEC

Ms. M.P. Thakur, AGP for State- Respondent No.2

Mr. Dilip Bodake a/w. Mr. S.T. Bhosale for Respondent No.4

**CORAM : SUNIL B. SHUKRE &
RAJESH S. PATIL, JJ.**

DATED : 27th JULY, 2023

P.C.:

1. Heard.

2. We find that the order dated 2nd February, 2022 has been questioned for its legality and correctness by the Petitioners in this petition. Of course, the Petitioners have also questioned the communications dated 19th October, 2022 and 31st October, 2022, which have been described by the Petitioners to be impugned orders, although they are only in the nature of communications and not the orders. The communications dated 19th October, 2022 and 31st October, 2022 being in the nature of request made for compliance

with the directions issued by this Court, there is no way that these communications could be challenged by the Petitioners. But, the order dated 2nd February, 2022, which is the order deciding the rights of the parties, is liable for judicial review before the appropriate forum. So, the question is, whether the order dated 2nd February, 2022 can be judicially reviewed by this Court or not?

3. Learned counsel for Respondent No.4 points out that the order dated 2nd February, 2022 has been quashed and set aside by the Election Commission on 24th February, 2022 by a common order and this common order of the Election Commission dated 24th February, 2022 has been quashed and set aside by this Court on 24th July, 2023 in a group matter starting with Writ Petition No. 4622 of 2022 and, therefore, nothing survives in this matter.

4. In this petition, the Petitioners have not questioned the legality and correctness of the order dated 24th February, 2022 passed by the Election Commission and the Petitioners are questioning only the order dated 2nd February, 2022. Considering this fact, we do not think that this petition is maintainable, unless the order dated 24th February, 2022 into which the order dated 2nd February, 2022 has been merged, is appropriately challenged by the Petitioners. But, now the Petitioners also can not challenge the order dated 24th February, 2022, even if they wish to do so for the reason that in the connected matters, this common order dated 24th February, 2022 passed by the Election Commission has been quashed and set aside by this Court on 24th July, 2023. While doing so, this Court has directed the Election Commission

to make fresh adjudication in accordance with law after giving opportunity of hearing to these Petitioners and all other interested parties by issuing them appropriate notices. That being so, nothing survives in this petition and the petition is disposed of accordingly.

(RAJESH S. PATIL, J.)

(SUNIL B. SHUKRE, J.)