

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6211 OF 2023

PRAVIN PANDHARINATH MANDLIK)...PETITIONER

V/s.

STATE ELECTION COMMISSION & ORS.)...RESPONDENTS

Mr.Chandrakant Yadav, Advocate for Petitioner.

Mr.Suraj Chakor, Advocate for Respondent No.1.

Mr.B.V.Samant, AGP for Respondents No.2 to 6 – State.

**CORAM : ABHAY AHUJA AND
M.M.SATHAYE, JJ.**

**DATE : 24 MAY 2023
(VACATION COURT)**

P.C. :

1. This Petition impugns the order dated 13 April 2023 passed by the District Collector, Thane and the consequent Notification dated 25 April 2023 issued by the District Collector, Thane under Rule 5(1) of the Maharashtra Village Panchayats (Number of

Members, Divisions into Wards and Reservations of Seats) Rules, 1966, on the ground that no opportunity of hearing was granted to Petitioner on 6 April 2023 as required under the law as well as, as per Ward Formation Program being Exhibit B to the Petition (Page 23).

2. When the matter was listed on 16 May 2023, this Court had directed the learned AGP to file an affidavit specifically stating the date on which Petitioner was heard by the concerned Sub-Divisional Officer.

3. Reply has been filed pursuant to the aforementioned order by Mr.Abhijeet Tulshiram Bhande Patil, Sub-Divisional Officer, Kalyan, District Thane. Mr.Sawant, learned AGP specifically draws the attention of this Court to paragraph 4 of the said affidavit which is quoted as under :

“4. I say that on 23.03.2023, Petitioner filed Written Objection to the draft ward formation in the office of Respondent no.4 Tahsildar Murbad. I say that on 31.3.2023, Respondent No.4 Tahsildar Murbad issued notice to Petitioner and directed him to remain present for hearing at office of Respondent No.3 on 03.04.2023.

However, on 03.04.2023 , as Respondent No.3 was at Thane for a meeting of District Level Committee for valuation of Land Acquisition of Sonawale and Palu Irrigation Dam, the hearing was rescheduled on 5.4.2023. I say that on 5.4.2023, Respondent No.3 was again called for a meeting at Maharashtra State Road Transport Corporation. Therefore, Written submissions of Petitioner was taken on record on 5.4.2023. Also, a report about issues mentioned in Petitioner's complaint was called from Gramsevak Sangam Grampanchayat. I say that Gramsevak Sangam Grampanchayat submitted his report on 10.04.2023."

4. A bare perusal of the said paragraph and the entire affidavit nowhere suggests that hearing was granted to Petitioner on 6 April 2023 or on any other date thereafter.

5. This is clearly in breach of not only the provisions of law but also in breach of the Ward Formation Program and Government Resolution dated 17 January 2023 (page 74).

6. In this view of the matter, we are left with no option but to set aside the order dated 13 April 2023 and the consequent Notification dated 25 April 2023.

7. The order dated 13 April 2023 and the consequent Notification dated 25 April 2023 is hereby quashed and set aside.

8. Petition stands disposed of in the above terms. Parties to bear their own costs.

(M.M.SATHAYE, J.)

(ABHAY AHUJA, J.)