

Dusane

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.13658 OF 2023

Meghan Kishor Patil

...Petitioner

V/s.

The District Collector, Palghar
& Ors.

...Respondents

Mr. Dilip B. Shinde a/w Mr. Mohan C. Kumbhar, Mr.
Harshvardhan Karade for Petitioner.

Mr. P.P. Pujari, AGP for State-Respondents.

CORAM: MADHAV J. JAMDAR, J.
DATE: 1st November 2023

P.C.:

1. The Petitioner who is a voter and entitled to vote in the General Election of village Saravali Gram Panchayat has sought following relief in the petition:

"a. Be pleased to quash and set aside order dated 23.10.2023 passed by the learned Election Officer/ Respondent No.2 herein and be pleased to allow the objection dated 23.10.2023 of Petitioner and reject the nomination form of Respondent No.4 submitted in the General Election of Sarawali Grampanchayat for the post of Sarpanch".

2. However, Mr. Shinde after arguing the matter for some time, sought withdrawal of the petition with liberty to adopt appropriate proceedings, in view of law laid down by the Full Bench of this Court in Writ Petition (Stamp) No. 26 of 2021 on 13th January 2021 in the matter of **Karmaveer Tulshiram Autade & Ors. Vs. The State Election Commission & Ors.**

The Full Bench of this Court *inter alia* has held as follows:

"68. For the reasons aforesaid, while agreeing with the view in **Vinod Pandurang Bharsakade** (supra), we answer the fundamental question as formulated in paragraph 27 in the negative. As a sequel thereto, we answer the questions referred by the Division Bench in the manner as follows:-

(i) Allowing a challenge in a writ petition to rejection of nomination form to contest an election and granting the relief claimed by setting aside such order of rejection is definitely not a step to sub-serve the progress of election and/or facilitate its completion in the sense enunciated in **Mohinder Singh Gill** (supra) and explained in **Ashok Kumar** (supra) though it may not always amount to intervention, obstruction or protraction of the election;

(ii) Article 243-O(b) of the Constitution of India is a bar for entertaining a writ petition under Article 226 of the Constitution against an order passed by the Returning Officer rejecting nomination paper and such provision would clearly be attracted whenever a writ petition is

presented before a Court for its consideration; and

(iii) The law laid down in **Vinod Pandurang Bharsakade** (supra) represents the correct view of law; consequently, we hold that the decision in **Smt. Mayaraju Ghavghave** (supra) and **Sudhakar s/o Vitthal Misal** (supra) do not lay down the correct law;"

(Emphasis added)

3. Accordingly, leave is granted to withdraw the Writ Petition. However, it is clarified that the Petitioner can pursue appropriate remedy, in case the Respondent No. 4 is successful.

4. It is clarified that this Court has not considered the merits of the matter and all contentions on merits are expressly kept open.

5. The Writ Petition is accordingly allowed to be withdrawn and disposed of as such, with liberty as aforesaid.

BHALCHANDRA
GOPAL
DUSANE

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(MADHAV J. JAMDAR, J.)