

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 15875 OF 2024**

Pandharinath Dnyaneshwar Jadhav

.. Petitioner

**Versus**

1. The Election Commission of India  
2. Rahul Mundake,  
The Returning Officer  
135-Shahapur (Scheduled Tribe)  
Legislative Assembly Constituency

...Respondents

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**Mr. Narayan G. Rokade** a/w. *Mr. Udaysinh Deshmukh and Mr. Vikrant Kadam, for Petitioner.*

**Mr. Akshay Shinde,** for *Respondent No.1-Election Commission of India.*

**Mr. B.V. Samant, Addl. GP** a/w. *Smt. V.R.Raje, AGP, for State.*

**CORAM : ARIF S. DOCTOR &  
SOMASEKHAR SUNDARESAN, JJ.**

**Date : November 6, 2024  
(Vacation Court)**

**PC:**

1. Rule. By consent of the parties, rule made returnable forthwith, and taken up for final hearing and disposal.

**Factual Background:**

2. This petition seeks a direction to the Returning Officer, '135-Shahapur Legislative Assembly Constituency' in connection with the forthcoming elections to the Maharashtra Legislative Assembly, to reverse the rejection of the nomination form of the Petitioner.

3. By an order dated October 30, 2024, the Returning Officer rejected the nomination form on the premise that although the constituency was reserved for Scheduled Tribes, the particular tribe to which the Petitioner belongs was *not* disclosed as required. According to the Petitioner, the Petitioner belongs to the 'Hindu Mahadev Koli' tribe. He has annexed his caste validity certificate to the petition. According to the Petitioner, the nomination form had been filed online and on October 29, 2024, a hard copy was also filed. It is his contention that he had received a letter asking him to participate in a meeting scheduled for November 5, 2024 at 3:30 p.m. in connection with a briefing on Corrupt Electoral Practices and Indian Penal Code and their implication on the election.

4. However, on October 30, 2024, on the basis of his particular tribe not having been identified specifically, his nomination came to be rejected.

**Preliminary Objection :**

5. Learned Counsel for the Respondent No.1 submits that this Court does not have jurisdiction to entertain the petition under Article 226 of the Constitution of India since a Full Bench of this Court in the case of Karmaveer Tulshiram Autade & 4 Ors. Vs. The State Election

Commission & 9 Ors.<sup>1</sup> has explicitly ruled, although in the context of Panchayat elections, that writ petitions would not be maintainable for rejection of nomination papers.

6. We have had occasion to extensively deal with the aforesaid preliminary objection in the case of Aashish Kishor Gadkari Vs. The Election Commission of India & Anr.<sup>2</sup> (**Aashish Gadkari**), where the state of the law as of today, has been dealt with in detail. In the interest of brevity, the contents of the analysis on the issue of jurisdiction are not repeated in this order.

**Application to Facts:**

7. We have also examined the nomination papers filed by the Petitioner. It is indeed true that the particular tribe to which the Petitioner belongs has not been set out in the nomination papers, although this is a fundamental requirement, particularly where the constituency is a reserved constituency. If the requisite ingredients of the nomination papers are incomplete and not rectified before the stipulated deadline, it would not be open to a candidate to demand a relaxation of time for continuing to correct and remedy the objections.

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<sup>1</sup> Civil Writ Petition (St.) No. 26 of 2021 dated January 13, 2021

<sup>2</sup> OS-Writ Petition (L.) No. 33675 of 2024 dated November 6, 2024

8. Besides, the petition was moved on November 5, 2024 and circulation granted for November 6, 2024. On November 4, 2024, the final list of candidates had already been published and after this date, interference by asking for the list to be amended to include the Petitioner's nomination would be disruptive of the electoral process. Each of the candidate listed in the final list would also need to be heard since their interests would be vitally affected. All such effort would be disruptive of the electoral process and not in furtherance of the progress of the electoral process, as explained by us in *Aashish Gadkari*.

9. Therefore, we are of the view that no case has been made out to hold that the jurisdictional facts necessary for exercise of our jurisdiction under Article 226 of the Constitution of India are in existence. Consequently, we are not inclined to issue any writ or direction in the facts of this case.

10. The writ petition is disposed of with no intervention being made.

11. We make it clear that apart from the discussion contained above on whether we ought to consider any intervention, we have not intended to express any opinion on or pronounce upon any issue including any issue of fact. All contentions on merits are expressly kept open and the

Petitioner is at liberty to pursue such remedies as he may be advised as being available in law.

12. All actions required pursuant to this order shall be taken upon receipt of a downloaded copy of this order as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]

[ARIF S. DOCTOR, J.]