

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15880 OF 2024**

Sunil Harishchandra Vetoskar

.. Petitioner

Versus

1. The Election Commission
Maharashtra,
2. Returning Officer
265, Chiplun Assembly Constituency Office,
Tal. Chiplun, District -Ratnagiri.

...Respondents

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Mr. Rakesh Bhatkar *i/b Mohit Dalvi, for Petitioner.*

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

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

Mr. B.V. Samant, Addl. GP a/w. Mr. A.K. Naik, 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, '265-Chiplun Legislative Assembly Constituency' in connection with the forthcoming elections to the Maharashtra Legislative Assembly, to accept the nomination form of the Petitioner on the premise that the rejection of

the nomination form was without legal basis.

3. According to the Petitioner, the objections raised in respect of the nomination form filed on October 29, 2024 at 2:57 p.m., were perverse and inappropriate. According to the Petitioner, the objections raised by the Returning Officer are not in compliance with any rule or guidelines of the Election Commission and the objections tabled were vague. The Petitioner has pleaded that certain columns being left blank was not so vital as to render the nomination form liable to be rejected.

4. In the same breath, the Petitioner states that the Petitioner had corrected the references made in the letter of objections issued by the Returning Officer. The Petitioner got to know about the rejection of the nomination form only on October 31, 2024.

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.¹ has explicitly ruled, although in the context of

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

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.*² (*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 find that the Returning Officer has specifically returned a finding that various portions of the nomination papers had been left blank and the Petitioner had been informed that this should be filled up and the objection should be rectified. It is explicitly found that prior to the designated date and time, i.e., 11:00 a.m. on October 30, 2024, the objections pointed out had not been cleared. While one of the objections, namely, that the photograph was not “notarised” indeed appears to be ambiguous, it is common ground that various columns in the nomination papers had remained unfilled before the designated time.

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

8. Therefore, what is evident is that the time deadline by which the oath had to be administered had evidently not been met. In an election process, time as to performance of the activities stipulated in the schedule is of the essence. If there is any administrative decision that vitiates the progress of the process, a writ court may intervene, but in the instant case, in view of the facts involved, no case has been made out for intervention since admittedly, there were indeed blanks in the nomination papers and these were not rectified before the stipulated deadline. Asking for that to be remedied at this stage would be disruptive of the electoral process and not in aid of electoral process.

9. Consequently, in our opinion, this is not a fit case for any consideration by us to effect any intervention within the scope of powers available in exercise of jurisdiction under Article 226 of the Constitution.

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.]