

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15902 OF 2024**

Shri Sachin Ramesh Kunde

.. Petitioner

Versus

1. The State of Maharashtra
Through the Chief Electoral Officer, Maharashtra
2. The Election Commission of India
3. The Returning Officer
Constituency No. 135-Shahapur

...Respondents

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Ms. Anima Mishra a/w. *Mr. Anuj Singh, for Petitioner.*
Mr. B.V. Samant, Addl. GP a/w. *S,t/ V.R. Raje, AGP, for Respondent No.1 & 3-State.*
Mr. Akshay Shinde, for *Respondent No.2-Election Commission of India.*

**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, 'Constituency No. 135,-Shahapur' in connection with the forthcoming elections to the Maharashtra Legislative Assembly, to accept the nomination form that was filed on October 29, 2024 at 2:58 p.m., and

came to be rejected.

3. According to the Petitioner, the defects pointed out upon examination of the nomination papers were minor and technical. Upon a review of the record, it appears that the defects pointed out include the fact that the Petitioner was himself a proposer of his candidature; multiple columns had been left blank, and the requisite number of proposers did not back the nomination.

4. The Petitioner assails the rejection on the ground that nearly 50% of the candidates in that constituency have been disqualified, and contends that such a statistic represents a severe imbalance calling for our intervention by exercise of our jurisdiction under Article 226 of the Constitution of India.

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. In the facts of the case, evidently, there are defects which had remained uncured within the deadline stipulated for clearing the same. It would not be possible for a writ court to treat any deficiency on the touchstone of alleged non-materiality, and use its own discretion to determine if any shortcoming in the nomination papers was insignificant. In any case, if there are blanks in a nomination form, indeed, they cannot be wished away as a minor technical defect. Likewise, if the candidate himself is a proposer, it would not be a minor technical defect.

8. Suffice it to say, no jurisdictional fact warranting exercise of any

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

intervention on our part has been demonstrated. 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, which has been analysed *Aashish Gadkari*.

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

10. 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.

11. 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.]