

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16781 OF 2024

Sanjay Vinayak Parade & Ors

...Petitioners

Versus

The District Election Officer Pune & Ors

...Respondents

Mr. Hrishikesh Giri, a/w Omkar Wangikar, for the Petitioners.

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

**CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE : NOVEMBER 19, 2024

PC :

1. Rule. Rule made returnable forthwith. Learned Counsel for the Respondents waive service. By consent of the parties taken up for final hearing and disposal.

2. The above Writ Petition is filed seeking to quash and set aside the order dated 17th October, 2024 requisitioning the Petitioners for election duty. This order has been passed by Respondent No.1.

3. The short issue involved in the present Petition is that the Petitioners (68 Petitioners) are all Veterinary Doctors working in

different Veterinary Government Hospitals under the Department of Animal Husbandry, State of Maharashtra. According to the Petitioners, as per the guidelines issued by the Election Commission of India, and more particularly, clause 10 of the said guidelines, Doctors and Compounders working in veterinary hospitals are specifically exempted from being requisitioned for election duty. For the sake of convenience, the relevant portion of clause 10 of the said guidelines is reproduced hereunder:-

"10. STAFF TO BE EXEMPTED:

10.1 The Commission has exempted certain categories of personnel from being requisitioned for election duty in view of essential nature of duties/service discharged by them. They are as follows:

- (i) Senior officers of the Indian Forest Service*
- (ii) Medical staff including doctors, nurses, ANMs etc. (except on health-related election duty)*
- (iii) Ayurvedic Medical Officer (AMO), Unani Medical Officer (UMO) and Homoeopathic Medical Officer (HMO) of AYUSH Department (except on health-related election duty)*
- (iv) Doctors and Compounders working in veterinary hospitals."*

[Emphasis Supplied]

4. In answer to this contention of the Petitioners, the learned AGP attempted to justify the requisitioning order and submitted that these Petitioners were requisitioned on the basis of the information

provided by the Head of the Animal Husbandry Department. Therefore, no fault can be found with the requisitioning order.

5. Having heard the learned Counsel for the parties and after carefully going through the guidelines issued by the Election Commission of India, we are in agreement that the learned Advocate appearing on behalf of the Petitioners that the Doctors and Compounders working in veterinary hospitals could not have been requisitioned for election duty in view of the exemption granted under the guidelines of the Election Commission of India. The logic for the same is also not far to see because the duties performed by these Doctors and Compounders are essential in nature. We are unimpressed with the argument canvassed by the learned AGP for the simple reason that once the Election Commission of India has exempted the Doctors and Compounders of veterinary hospitals, [and it is not in dispute before us that the Petitioners are all veterinary doctors], whether any information of these Doctors was furnished to the Election Officer by the head of the Husbandry Department is wholly irrelevant.

6. In these circumstances, we allow the Writ Petition in terms of prayer clauses (a) and (b) which read thus:-

“a) That a writ in the nature of Certiorari or other appropriate

Page 3 of 4

November 19, 2024

writ be issued by this Hon'ble Court thereby quashing and setting aside the Order dated 17/10/2023 appointing the Petitioners for election duty issued by the Respondent No.1.

b) That a writ in the nature of Certiorari or other appropriate writ be issued by this Hon'ble Court thereby quashing and setting aside the Show Cause Notice dated 28/10/2024 issued by the Respondent No.1 to the Petitioners."

7. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

8. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]

[B. P. COLABAWALLA, J.]