

Pdp

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

**INTERIM APPLICATION NO. 12676 OF 2024
IN
PUBLIC INTEREST LITIGATION NO. 45 OF 2022**

Shantanu Vilas Nandgude .. Applicant

In the matter between:

Shantanu Vilas Nandgude .. Petitioner

Versus

The State of Maharashtra & Anr. .. Respondents

**WITH
PUBLIC INTEREST LITIGATION NO. 45 OF 2022**

Shantanu Vilas Nandgude .. Petitioner

Versus

The State of Maharashtra & Anr. .. Respondents

Mr. Shriram S. Kulkarni a/w Ms. Vrushali Kabare for applicant/petitioner.

Mr. P. P. Kakade, Government Pleader with Mr. O. A. Chandurkar, Addl. Govt. Pleader and Mrs. G. R. Raghuwanshi, AGP for respondent nos.1-State.

Mr. Sachindra Shetye with Mr. Suraj Chakor and Mr. Akshay Pansare for respondent no.2.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
AMIT BORKAR, J.**

DATE: 18th SEPTEMBER, 2024

P.C.:

IA/12676/2024:

1. Since the amendment sought by this Interim Application changes the very nature of the PIL petition, we decline the prayer made in the Interim Application. The Interim Application is hereby rejected.

PIL No. 45 of 2022:

2. The PIL petition has been filed with several prayers, the main prayer being to direct the respondents to seek disclosure in the nomination form and/or an affidavit from the contesting candidate that he himself or his spouse or his dependents have not raised any illegal/unauthorized construction.

3. Considering the said prayers, this Court on 6th September, 2023 passed a detailed order referring to the judgment of the Hon'ble Supreme Court in the case of ***Union of India vs. Association for Democratic Reforms & Anr.***, reported in (2002) 5 SCC 294 and directed the State Election Commission to take appropriate decision on the grievances raised in the PIL petition.

4. In deference to the said order of the Court, dated 6th September, 2023, the State Election Commission has taken a decision and accordingly amended Clause 16.5 in its earlier order dated 13th August, 2018. An affidavit has also been filed by the State Election Commission stating therein that Clause 16.5 of the earlier order, dated 13th August, 2018 has been amended. Amended Clause 16.5 reads as under: -

"16.5: I have read the provisions of Section 10 of the Maharashtra Municipal Corporation Act, 1949/Section 16 of the Mumbai Municipal Corporation Act, 1888 and as per the said provision I am not disqualified from being elected as member of Municipal Corporation. I myself or My Wife/My Husband/My dependents have not made any unauthorized construction. I am aware that as per the provisions of Section 10(1D) Maharashtra Municipal Corporation Act, 1949/Section 16(1D) of Mumbai Municipal Corporation Act, 1888 I shall be disqualified from holding the office of Councilor if I am found to have made an unauthorized construction."

- 5.** The aforesaid decision of the State Election Commission redresses the grievances of the petitioner substantially.
- 6.** Accordingly, we do not find any reason to continue with the proceeding of this PIL petition, which stands disposed of.
- 7.** In respect of such reforms or changes pertaining to elections to Zilla Parishads, Panchayat Samities and Village Panchayats, the petitioner is permitted to make an appropriate representation, taking all the pleas which may be available to him, to the State Government in the appropriate department as also to the State Election Commission, which shall be considered and an appropriate decision thereon shall be taken by the competent authority within four months from the date of such representation is preferred by the petitioner.

(AMIT BORKAR, J.)

(CHIEF JUSTICE)

Digitally
signed by
PRAVIN
DASHARATH
PANDIT
Date:
2024.09.18
18:30:41
+0530