



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.120 OF 2025

Bhagwat Rameshwar Khonde
Age: 40 years, Occu.: Agri.,
R/o. Umarthadi, Tq. Palam,
District Parbhani.

.. Petitioner

Versus

1. The Chief Electoral Officer,
State of Maharashtra
Madam Kama Road,
Hutatma Rajguru Square,
Mantralaya, Mumbai-400032.
2. The Collector,
Collector Office, Parbhani,
Tq. And Dist. Parbhani.
3. The Sub Divisional Officer/
Electoral Registration Officer,
Gangakhed, Dist. Parbhani.

.. Respondents

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Mr. D. A. Madake, Advocate for the petitioner.
Mr. G. A. Kulkarni, APP for the respondents/State.

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**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 27 FEBRUARY 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. The present petition has been filed for the following relief :-

*“B) To direct the respondent No.3 to lodge the
FIR/Criminal prosecution against Smt. Sangita Achutrao
Patharkar in view of provisions of Section 31 of the
Representation of People’s Act, by issuing any
appropriate writ, order, or direction, in the like nature.*

C) To direct the respondent No.3 to consider and decide the representations dated 07.09.2022, 05.09.2022, 01.08.2024 and reminder letter dated 26.08.2024 preferred by the petitioner within a period of three weeks, in view of provisions of Section 31 of the Representation of People's Act, by issuing any appropriate writ, order, or direction, in the like nature."

2. Heard learned Advocate for the petitioner and learned APP for the respondents/State.

3. Learned Advocate for the petitioner submits that the petitioner and voters of village Umarthadi have filed complaints on 05.09.2022 and 07.09.2022 before the respondent No.3/Sub Divisional Officer, Gangakhed and respondent No.2/the Collector, Parbhani stating that Smt. Sangita Achutrao Patharkar has given false declaration and false documents and recorded her name in the village Umarthadi and requested to conduct the detail inquiry in the matter and take necessary action against her. Further, he submits that after the receipt of complaints, respondent No.3 on 15.09.2022 directed the Tahsildar, Palam to conduct detailed inquiry and submit report. Accordingly, Tahsildar, Palam on 16.09.2022 submitted the report, however, the said report is incomplete. Therefore, respondent No.3 further directed to take Tahsildar, Palam to conduct the detailed inquiry. Thereafter, upon

detailed inquiry Tahsildar, Palam submitted report to respondent No.3 on 18.10.2022 and submitted that name of Smt. Sangita Achutrao Patharkar is appearing in voter list of villages Ghoda as well as village Umarthadi and she is one and same person. It is further submitted in the said report that she is permanent resident of village Ghoda and not the village Umarthadi. Thereafter, after the election, petitioner had filed complaint on 15.11.2022 for disqualification of Smt. Achutrao Patharkar in view of Section 16 of Maharashtra Village Panchayat Act and Section 14(1)(k) of the said Act, however, no action has been taken by the authorities on the said complaint. Therefore, the petitioner filed Writ Petition No.12332 of 2022 seeking directions to decide the representation dated 15.11.2022. After hearing, this Court on 06.12.2022 disposed of the said writ petition with directions to respondent No.2 to decide the said representation within twelve weeks from today. Learned Advocate for the petitioner further submitted that thereafter respondent No.2 by order dated 22.05.2023 allowed the complaint of the petitioner and directed respondent No.1 to take necessary action in view of Section 22 of Representation of People's Act for deleting the name of Smt. Sangita Achutrao Patharkar from the voter list of village

Umarthadi. Thereafter, being aggrieved by the order dated 22.05.2023, Smt. Sangita Achutrao Patharkar filed Appeal under Section 24 of the Representation of People's Act before the Chief Electoral Officer of Maharashtra. The Chief Electoral Officer by order dated 19.07.2023, confirmed the order passed by respondent No.2. Being aggrieved by the order dated 19.07.2023 Smt. Sangita Achutrao Patharkar filed Writ Petition No.9488 of 2023 before this Court. This Court vide judgment dated 25.06.2024 allowed the said writ petition and quashed and set aside the order dated 19.07.2023, however, this Court had granted liberty to the authorities under the Representation of People's Act to take appropriate step in accordance with law pursuance to representations made by the present petitioner. However, the authorities have failed to take any action on the representations of the petitioner dated 05.09.2022 and 07.09.2022. Therefore, again reminder on 01.08.2024 and 26.08.2024 filed representation before respondent No.3 and requested to take action in view of Section 31 of Representation of People's Act, yet no action has been taken by respondent No.3. Being aggrieved by the inaction on the part of respondents, the petitioner has filed present writ petition.

4. Here, when the petitioner seeks registration of the FIR and the investigation thereof, then we are guided by the decisions in ***Sakiri Vasu Vs. State of U.P. and Ors., [(2008) 2 SCC 409]***, ***Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage and Ors., [(2016) 6 SCC 277]*** and ***T.C. Thangaraj Vs. V. Engammal and Ors., [(2011) 12 SCC 328]***, which have been then referred in ***M. Subramaniam and Ors. Vs. S. Janaki and Ors., [(2020) 16 SCC 728]***, wherein the Hon'ble Supreme Court has held that the petitioner/complainant will have to approach Magistrate under Section 156(3) of the Code of Criminal Procedure and the High Courts should not entertain such petitions under Section 482 of the Code of Criminal Procedure or under Article 226 of the Constitution of India.

5. In view of the said legal position, the writ petition stands disposed of with liberty to the petitioner to approach the Magistrate as provided under the law.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm