



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

902 WRIT PETITION NO. 7958 OF 2025

**DNYANDEO NIVRUTTI GAWARE
VERSUS
STATE OF MAHARASHTRA
THROUGH PRINCIPAL SECRETARY AND OTHERS**

WITH

WRIT PETITION NO. 7047 OF 2025

**SHAIKH AFSAR NAWABODDIN
VERSUS
STATE OF MAHARASHTRA
THROUGH PRINCIPAL SECRETARY AND OTHERS**

AND

984 WRIT PETITION NO. 8321 OF 2025

**NAVNATH MOTIRAM SHIRALE AND ANOTHER
VERSUS**

**STATE OF MAHARASHTRA
THROUGH PRINCIPAL SECRETARY AND OTHERS**

AND

1046 WRIT PETITION NO. 1963 OF 2025

**SHAIKH AFSAR NAWABODDIN
VERSUS
STATE OF MAHARASHTRA
THROUGH PRINCIPAL SECRETARY AND OTHERS**

.....

Sr. Advocate for the Petitioner in WP/7958/25: Mr. V.D. Hon i/b.
Shaikh Tarek Mobin

Advocate for the Petitioner in WP/7047/25: Mr. Mukul Kulkarni i/b.
Shaikh Tarek Mobin

Advocate for the Petitioner in WP/8321/25 : Mr. C.V. Thombre

Advocate for the Petitioner in WP/1963/25 : Mr. Sayyed Tauseef Yaseen

Advocate General / GP for Respondent/State : Dr. Birendra Saraf a/w.

A.B. Girase

Sr. Advocate for Resp./SEC : Mr. S.B. Deshpande i/b. Ajit Kadethankar a/w.
Priyanka Deshpande

.....

**CORAM : MANISH PITALE &
Y.G. KHOBRAGADE, JJ.**

DATE : 10th July, 2025

PC. :-

1. These four petitions have been urgently taken for consideration in the light of the order dated 06.05.2025 passed by the Hon'ble Supreme Court in Special Leave to (Civil) No.19756/2021 (Rahul Ramesh Wagh V/s. The State of Maharashtra) and connected matters. In the said order, the Hon'ble Supreme Court expressed its concern with regard to the delay in conducting elections to local bodies in the State of Maharashtra. After considering the contentions raised before it, the Hon'ble Supreme Court directed that, without prejudice to the issues raised by rival parties, elections to the local bodies in the State of Maharashtra ought to be conducted at the earliest with an endeavor being made to conclude the elections within a period of four months. A period of two months has already elapsed and the present Writ Petitions have been filed before this Court in the context of steps taken by the Respondent-State as well as the

State Election Commission in the process of abiding by the aforesaid directions of the Hon'ble Supreme Court.

2. Writ Petition Nos.7958/2025 & 7047/2025 were listed for consideration on 04.07.2025. Considering the urgency of the matter this Court directed listing of the said petitions today, with time being granted to the State as well as the State Election Commission to take urgent instructions in the matter. Writ Petition Nos.1963/2025 and 8321/2025 are also taken up for consideration, in the light of the fact that these two petitions also raise concern of the Petitioners with regard to the manner in which the State as well as the State Election Commission are proceeding to initiate the process of conducting elections to the local bodies in the State of Maharashtra, particularly in the backdrop of the aforesaid order dated 06.05.2025 passed by the Hon'ble Supreme Court.

3. The Petitioner in Writ Petition No.7958/2025 has approached this Court for the following reliefs:

“A) The present Writ Petition may kindly be allowed

B) Quash and set aside the impugned notification dated 10.06.2025 along with communication dated 14.05.2025 issued by the Respondent No.2-State Election Commission by issuing Writ of mandamus and/or any other Writ in like nature and for that purpose issue necessary orders;

C) Hold and declare that, the work of ward formation declared in furtherance to 2022 election for Pathri Municipal Council is legal and valid and the impugned notification dated 10.06.2025 along with communication dated 14.05.2025 contemplating fresh election process is illegal, arbitrary and contrary to order dated 04.05.2022 passed by the Hon'ble Supreme Court in S.L.P. No. 19756/2021 and for that purpose issue necessary orders;

D) Issue Writ of mandamus and/or any other appropriate Writ in like nature thereby direct the Respondent No.2-Election Commission to conduct the Election for Pathri Municipal Council by commencing the election work from the stage it was stalled by the Respondent No.2 vide stay notification dated 14.07.2022 as per decision of Hon'ble Supreme Court in S.L.P. No. 19756/2021 and for that purpose issue necessary orders;

E) Pending Hearing and Final disposal of this Writ Petition the effect, Execution and implementation of impugned notification dated 10.06.2025 along with communication dated 14.05.2025 may kindly be stayed during pendency of this Writ Petition.

F) Any other suitable and equitable relief may kindly be granted in favour of the petitioner.”

4. The Petitioners in Writ Petition Nos.1963/2025 and 8321/2025, have raised an ancillary issue with regard to the question as to whether the elections to the local bodies would have to be conducted by applying the position of law with regard to election of the President of the Municipal Councils as prevailing prior to amendment brought about on 14.07.2022. It is a matter of record that prior to amendment the election of the President of the Municipal Council was by voting amongst the

elected councilors and after the amendment the election of the President of the Municipal Council is by way of direct election.

5. We have considered the rival submissions. While the learned counsel for the Petitioners in these Writ Petitions vehemently submitted that the impugned steps being taken by the State and the State Election Commission are in the teeth of the order passed by the Hon'ble Supreme Court, according to the learned Advocate General appearing for the State and the learned senior counsel Mr. S.B. Deshpande appearing for the State Election Commission, the steps being taken on their behalf are in tune with the directions given by the Hon'ble Supreme Court. It is submitted that, in any case, if there is any doubt in the minds of the Petitioners with regard to the same they ought to raise their grievances before the Hon'ble Supreme Court where the matters are still pending, instead of knocking the doors of this Court.

6. Rival submissions were made on the question of the stage from which the election process would stand initiated in pursuance of the order dated 06.05.2025 passed by the Hon'ble Supreme Court and as to whether the exercise of ward formation along with ascertaining of reservation for OBCs is to be undertaken afresh or the authorities are expected to proceed from the stage pertaining to the year 2022, as indicated by the Hon'ble

Supreme Court. Attention of this Court has been invited to Section 10 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 and reference is also made to earlier orders passed by the Hon'ble Supreme Court in the pending matters with regard to the election to the local bodies in the State of Maharashtra.

7. We have perused the order dated 04.05.2022 passed by the Hon'ble Supreme Court in the aforesaid SLP (Civil) No.19756/2021 and connected matters. The perusal of the said order shows that at one place the Hon'ble Supreme Court has observed as follows:

“Accordingly, the election programme of such local bodies must proceed and the State Election Commission is obliged to notify the election programme within two weeks from today in respect of such local bodies including to continue with the process from the stage as on 10.3.2022 on the basis of the delimitation done prior to coming into force of the Amendment Act(s) w.e.f. 11.03.2022.

In other words, the delimitation as it existed prior to 11.03.2022 in respect of concerned local bodies be taken as notional delimitation for the conduct of overdue elections and to conduct the same on that basis in respect of each of such local bodies.”

8. It is also found that in judgment and order dated 10.05.2022 passed by the Hon'ble Supreme Court in Writ Petition (Civil) No.278/2022 Suresh Mahajan V/s. State of Madhya Pradesh and Anr., certain

observations were made that were specifically made applicable to the State of Maharashtra also. The said observations are as follows:

“12. Therefore, we direct the State Election Commission by way of interim order, to issue election programme without any further delay on the basis of the wards as per the delimitation done in the concerned local bodies when the elections had become due consequent to expiry of 5 (five) years term of the outgoing elected body or before coming into force of the impugned Amendment Act(s) whichever is later. On that notional basis, the State Election Commission ought to proceed without any exception in respect of concerned local bodies where elections are due or likely to be due in the near future without waiting even for the compliance of triple test by the State Government for providing reservation to Other Backward Classes. We have no manner of doubt that only such direction would meet the ends of justice and larger public interests consistent with the constitutional mandate that the local self-government must be governed by the duly elected representatives uninterrupted except in case of its dissolution before expiry of the term on permissible grounds.

13. For, until the triple test formality is completed "in all respects" by the State Government, no reservation for Other Backward Classes can be provisioned; and if that exercise cannot be completed before the issue of election programme by the State Election Commission, the seats (except reserved for the Scheduled Castes and Scheduled Tribes which is a constitutional requirement), the rest of the seats must be notified as for the General Category.”

9. It is undisputed that the aforesaid SLP and connected matters have remained pending before the Hon'ble Supreme Court, wherein a

series of orders have been passed, including an order dated 22.08.2022 directing status quo to be maintained in the light of the issues raised on behalf of the rival parties inter alia, concerning the aspect of reservation for OBCs. It is only in the recent order dated 06.05.2025 that the Hon'ble Supreme Court while expressing concern about the Constitutional mandate of democracy for holding elections at the grassroots level that specific directions were issued. Relevant portion of the said order dated 06.05.2025 passed in SLP (Civil) No. 19756/2021 and connected matters reads as follows:

“5. Consequently, subject to the outcome of these proceedings and without prejudice to the issues raised on behalf of the rival parties, we deem it appropriate to issue the following directions to the State of Maharashtra/ State Election Commission:

(i) The elections to the local bodies shall be notified by the State Election Commission within four weeks;

(ii) The reservation shall be provided to the OBC communities as per the law as it existed in the State of Maharashtra prior to the 2022 Report of the Banthia Commission;

(iii) An endeavour shall be made to conclude the elections within a period of four months. However, the State Election Commission shall be at liberty to seek extension of time in appropriate cases; and

(iv) The Elections shall be held subject to the outcome of these proceedings.

6. *Post these matters for hearing on 16.09.2025.”*

10. The thrust of the submissions made on behalf of the Petitioners is that the impugned communications addressed by the State Election Commission to the State of Maharashtra and the declaration of election programme by the State Election Commission are in the teeth of the directions issued by the Hon’ble Supreme Court, some of which have been quoted herein-above. The Petitioners contend that wherever ward formation had already taken place as on 10.03.2022 the clock cannot be put back and the State as well as the State Election Commission ought to proceed in such Municipal Councils from the stage post ward formation, as is clear from the directions of the Hon’ble Supreme Court. Much emphasis is placed on the above quoted directions where the Hon’ble Supreme Court appears to be indicating that no reservation for OBCs can be provisioned.

11. But, this Court cannot ignore the direction issued by the Hon’ble Supreme Court in paragraph 5 (ii) in the latest order dated 06.05.2025 quoted herein-above, wherein it is specifically directed that reservation shall be provided to the OBC communities as per law as it existed in the State of Maharashtra prior to the 2022 report of Banthia Commission. We are of the opinion that the effect of considering the submissions made on behalf of the Petitioners would amount to

interpreting and clarifying the orders of the Hon'ble Supreme Court. The same is necessarily in the domain of the Hon'ble Supreme Court and this Court would not hazard a guess either way. It would not be appropriate for this Court to consider and determine the issues sought to be raised on behalf of the Petitioners in these petitions.

12. In this backdrop, this Court is refraining from referring to, interpreting and applying Section 10 of the 1965 Act to the issues sought to be raised by the Petitioners. As to whether accepting the interpretation placed by the Petitioners on the orders of the Hon'ble Supreme Court would amount to the election programme proceeding in different Municipal Councils at different stages and what effect it may have on the entire process of election, are issues that need to be brought to the notice of the Hon'ble Supreme Court. It would not be appropriate for this Court to comment upon them and to render findings there on. Therefore, it would be appropriate that clarification is sought from the Hon'ble Supreme Court so that the process of election is taken forward at the earliest, which is the concern of the Hon'ble Supreme Court itself as expressed in the order dated 06.05.2025. It is to be noted that as per the change in the position as it exists today the exercise of ward formation is to be undertaken by the

State instead of the State Election Commission and this is also an aspect that may require deliberation.

13. As regards Writ Petition Nos.1963/2025 and 8321/2025, the issue specifically being raised about the manner in which election to the position of President of Municipal Councils is to be undertaken either directly or only by the elected Municipal Councilors, will also have to be brought to the notice of the Hon'ble Supreme Court for an appropriate clarification.

14. In view of the above, the Writ Petitions are disposed of with liberty to the Petitioners to approach the Hon'ble Supreme Court in order to seek appropriate reliefs / clarification in the matters. This Court has not expressed any opinion on the merits of the contentions raised on behalf of the Petitioners. Pending applications, if any, also stand disposed of.

[Y.G. KHOBRAGADE, J.]

[MANISH PITALE, J.]