



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

904 WRIT PETITION NO.14184 OF 2025

**YUSUF KHAJA MOHIUDDIN SHAIKH
VERSUS
THE STATE OF MAHARASHTRA & OTHERS**

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Advocate for the Petitioner : Mr.S.S.Gangakhedkar
AGP for Respondent-State : Mr.S.K.Shirse
Advocate for Respondent-State Election Commission :
Mr.Sachindra Shetye a/w. Ms.Sharayu Dhanture
Advocate for Respondent no.3 : Mr.V.B.Jagtap

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CORAM : ARUN R. PEDNEKER, J.

DATE : 27.11.2025

P.C. :

1] By the present writ petition, the petitioner challenges order passed by the Returning Officer, so also, the order dated 25.11.2025 passed by the Ad-hoc District Judge-1, Omerga in Appeal No.24/2025 whereby the Appellate Court confirmed the order passed by the respondent no.2 – Returning Officer, rejecting the nomination of the petitioner from Ward No.4B from Omerga Municipal Council.

2] The election programme of the Municipal Council and Nagar Panchayat for State of Maharashtra was published on 04.11.2025. The last date for submission of nomination from 10.11.2025 to 17.11.2025. The withdrawal of nomination started from 19.11.2025 to 20.11.2025 and the date for allocation of symbol was scheduled on 26.11.2025. The petitioner filed his nomination as substitute candidate of recognized political party from Ward No.4B in the general elections of the Omerga Municipal Council. The main candidate of the recognized political party is respondent no.3. It is stated that the nomination of the respondent no.3 was found to be valid. As far as present petitioner is concerned, as he was a dummy candidate, however, his nomination was not supported by five proposers, as such, his nomination was rejected. Thereafter, the petitioner preferred Appeal before the Appellate Court and the Appellate Court has rejected Appeal on the basis of Circular dated 18.11.2025. The Circular dated 18.11.2025 is issued in exercise of powers under Section 10-A (4) of the Maharashtra Municipal

Councils, Nagar Panchayats and Industrial Townships Act. The communication dated 18.11.2025 indicates that earlier Circular dated 17.11.2025 is recalled and only one proposer is required in the nomination form of the main candidate of the political party and substitute candidate requires 5 proposers, failing which his nomination is required to be rejected. In pursuance of the communication issued by the State Election Commission dated 18.11.2025, the nomination paper of the petitioner is rejected.

3] The learned counsel for the petitioner submits that communication dated 18.11.2025 is contra to the provisions of Rule 12 (2) of the Maharashtra Municipal Councils & Nagar Panchayats Election Rules, 1966, which reads as under :

12. Nomination of candidates. -

(1)

(2) Every nomination paper shall be in the form specified by the State Election Commission which shall be supplied by the Returning Officer to any voter on demand. The nomination shall be duly completed and signed by the candidate and by one voter of the ward as proposer in case the candidate is sponsored by a recognised political party, or by five voters of the ward as

proposers in case of any other candidates. The nomination paper shall be delivered to the Returning Officer by such candidates either in person or by his proposer, on or before the date appointed under sub-rule (1) of Rule 4 during the time and at the place specified thereunder.]

4] He further submits the nomination shall be duly completed and signed by the candidate and by one voter of the ward as proposer in case the candidate is sponsored by a recognised political party, or by five voters of the ward as proposers in case of any other candidates. He further submits that his nomination was sponsored by the recognized political party, as such, only one proposer had signed the nomination form. He further submits that communication dated 18.11.2025 is contra to the Rule 12 (2) of the Election Rules, 1966. He further submits that in view of the illegal communication, the nominations of the petitioner are rejected. He relies upon the judgment of the Supreme Court in the case of **Union Territory of Ladakh and others Vs. Jammu and Kashmir National Conference and another** reported in **AIROnline 2023 SC 739** more particularly para 36 to 38 and submits that this Court can interfere with the election process if there is illegal rejection

made.

5] *Per contra*, the learned counsel for the respondent-State Election Commission submits that the communication dated 18.11.2025 is subjudice in the various Writ Petitions filed before this Court and notices are issued. However, there is no stay to the communication and validity of the communication is challenged in those writ petitions particularly Writ Petition No.13873/2025 along with other connected Writ Petitions. He further submits that communication dated 18.11.2025 continues to be in force. He further submits that final list is published and the symbols are also allotted to the candidates. He further submits that any interference by this Court would amounts to interference in the election process. He relies upon the judgment of the Full Bench in the case of **Karmaveeer Tulshiram Autade and others Vs. State Election Commission, Mumbai and others** reported in 2021 (2) Mh.L.J. 349 and the Full Bench at para 68 of the judgment has held as under :

68. For the reasons aforesaid, while agreeing with the view

in *Vinod Pandurang Bharsakade* (supra), we answer the fundamental question as formulated in paragraph 27 in the negative. As a sequel thereto, we answer the questions referred by the Division Bench in the manner as follows:-

- (i) Allowing a challenge in a writ petition to rejection of nomination form to contest an election and granting the relief claimed by setting aside such order of rejection is definitely not a step to sub-serve the progress of election and/or facilitate its completion in the sense enunciated in *Mohinder Singh Gill* (supra) and explained in *Ashok Kumar* (supra) though it may not always amount to intervention, obstruction or protraction of the election;
- (ii) Article 243-O(b) of the Constitution of India is a bar for entertaining a writ petition under Article 226 of the Constitution against an order passed by the Returning Officer rejecting nomination paper and such provision would clearly be attracted whenever a writ petition is presented before a Court for its consideration; and
- (iii) The law laid down in *Vinod Pandurang Bharsakade* (supra) represents the correct view of law; consequently, we hold that the decision in *Smt. Mayaraju Ghavghave* (supra) and *Sudhakar s/o. Vitthal Misal* (supra) do not lay down the correct law;

6] Having considered rival submissions, this Court would not interfere in the ongoing elections process since the final list of nominated candidates is published and symbols are also allotted to the candidates. The judgment relied upon by the petitioner of the Union Territory of Ladakh and others does not relate to the election of the

Municipal Council and the facts of the present case are different. The Hon'ble Supreme Court has also observed that the Constitutional Courts, under normal circumstances are loath to interfere, in ongoing election process. Communication dated 18.11.2025 is sub-judice before Division Bench of this Court and has not been stayed and the Returning Officer has acted in terms of the communication. Liberty is granted to the petitioner to avail remedy is as available in law.

7] With the above observations, the Writ Petition is dismissed.

[ARUN R. PEDNEKER]
JUDGE

DDC