



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14246 OF 2025

Adv. Ajay s/o. Bhausaheb Pagare,
Age 32 yrs., Occu. Legal Practitioner,
R/o. Gurukul Wasahat, Rahuri Factory,
Tq. Rahuri Dist. Ahmednagar

.....Petitioner.

Versus.

Sansare Prakash Marshal
Age 48 years, Occu. Business,
R/o. At Post Ambi Store,
Devlali Pravara, Tq. Rahuri,
Dist. Ahmednagar & Ors.

.....Respondents.

....
Mr. V.D. Salunke, Advocate for the petitioner.

Mr. Sachindra Shetye a/w. Ms. Sharayu Dhanure, Advocate for respondent/
State Election Commission.

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CORAM : ARUN R. PEDNEKER, J.
Date : 28.11.2025

ORDER :-

1. By the present writ petition, the petitioner challenges the impugned judgment and order dated 26.11.2025 passed by the learned District Judge-3, Ahmednagar/appellate authority by which Review Petition No. 2/2025 is allowed and nomination of respondent no. 1 is declared to be valid as a candidate of BJP and the order dated 18.11.2025 passed by the Returning Officer, rejecting the nomination of respondent No. 1 is quashed and set aside and the order passed in Election Appeal No. 1/2025 is set aside/recalled

2. Facts giving rise to the present petition are summarized in nutshell is as under :-

Respondent No. 1/State Election Commission published notification on 4.11.2025 for conducting the election of municipal council and nagar panchayats of State of Maharashtra. From the election programme, it appears that final voters list was published on 31.10.2025. Nomination forms on the website were available from 10.11.2025 to 17.11.2025. The date of acceptance of nomination forms was from 10.11.2025 to 17.11.2025 up to 3.00 p.m. Scrutiny of nomination forms and publication of list of nominated candidates was on 18.11.2025. Last date for withdrawal of nomination form after publishing valid nominated list of candidates was between 19.11.2025 to 20.11.2025 up to 3.00 p.m. In case of any pending appeal qua the acceptance or rejection of the nomination papers, then the period would stand extended up till 25.11.2025. The last date for publishing valid list of final nominated candidates and allotment of election symbols was 26.11.2025. Date of election would be 2.12.2025. Date of counting and declaring result would be 03.12.2025 and date of publication of election result in the Government Gazette as per section 19 would be 10.12.2025.

3. It appears that respondent No. 1 has filed candidature from Ward No. 7A reserved for SC category in Municipal Council Pravara. Nomination of respondent No. 1 was rejected by the Returning Officer by order dated 18.11.2025 as his form was not supported by five proposers. On that date the Returning Officer has rejected 6 nomination forms and only 5 candidates remained in fray. Candidates who had had filed nomination along with the supporting 'A' form issued by the political party are required to be signed by least by one proposer whereas the nominatin supported by 'B' form requires signatures of 5 proposers in terms of Rule 12 (2) of the Maharashtra

Municipal Councils and Nagar Panchayats Election Rules, 1966 (hereinafter referred to as 'the Election Rules' for short).

4. In Ward No. 7A one Sachin Dattatraya Sarode was an authorized candidate of BJP having 'A' Form and respondent No. 1 was dummy candidate of the political party. On the date of scrutiny, nomination of Sachin Dattatraya Sarode was accepted as valid and nomination of respondent No. 1 as a dummy candidate was rejected by the Returning Officer vide order dated 18.11.2025 as form of original candidate was accepted. Against the rejection of nomination, on 19.11.2025 respondent No. 1 filed Election Appeal No. 1/2025 before the District Court, Ahmednagar under Rule 15 of the Election Rules. The learned District Judge has dismissed the appeal filed by respondent No. 1 on 25.11.2025.

5. On 21.11.2025 Sachin Dattatraya Sarode, an authorized candidate of political party withdrew his nomination. Respondent No. 1 filed Review Petition No. 2/2025 before the District Court under section 114 r/w. Order XLVII, Rule 1 of Civil Procedure Code and prayed to review of the order passed in Election Appeal No. 1/2025 on the ground that Mr. Sachin Sarode, the candidate of political party has withdrawn his candidature and the appellant is the candidate of the political party. The learned District Judge allowed the Review Petition No. 2/2025 filed by respondent No. 1 on 26.11.2025 and the order passed in Election Appeal No. 1/2025 is set aside/recalled and the appeal is allowed.

6. The learned counsel for the petitioner submits that there is no

provision to file review petition before the appellate authority under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Township Act, 1965. The learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in the case of **Naresh Kumar and others Vs. Government of NCT of Delhi reported in 2019 DGLS (SC) 1369** and submits that the Hon'ble Supreme Court in para 12 of the judgment has held that it is well settled law that the power of review can be exercised only when the statute provides for the same and in absence of any such provision in the concerned statute, such power of review cannot be exercised by the authority concerned.

7. The last date for publishing valid list of final nominated candidates and allotment of election symbols was 26.11.2025. At this stage, issuing notice and intervening in the matter would not be feasible as it would be counter-productive to the election process. The learned counsel for the petitioner has also relied upon the judgment and order of this Court in the case of **Suresh Pannalal Sankhala Vs. Returning Officer and Ors. decided on 16.3.2023 in Writ Petition No. 2688/2023** and submits that this Court can interfere in the election process. However, the judgment relied upon by the learned counsel for the petitioner relates to the election of cooperative societies and not of municipal council and may not be of any assistance in the present case. In view of this limitation under Article 243 (ZG) of Constitution of India and also considering the fact that election process has proceeded substantially and any interference by this court would interfere in the election process, this court in exercise of its writ jurisdiction would not entertain the present writ petition. The observations made by the Full Bench

of this Court at para No. 68 in the case of **Karmaveer Tulshiram Autade and Ors. Vs. State Election Commission, Mumbai** reported in 2021 (2) Mh.L.J. 349, are relevant for this purpose and are noted below :-

"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; "

8. Considering the law laid down by the Full Bench of this Court in the case of **Karmaveer Tulshiram Autade** cited supra and considering all the aspects of the matter, it appears that there are legal issues involved to be decided. In view of the above, I hold that at this stage no interference would be warranted in the election process. The petitioner is at liberty to take steps as available in law by filing appropriate proceeding before

appropriate authority.

9. The writ petition is disposed of accordingly with above liberty.

[ARUN R. PEDNEKER, J.]

ssc/