



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.14316 OF 2025

Rahul S/o Shankarrav Khandagale,
Age-44 years, Occu:Social Work,
R/o-Main Road, Georai,
Taluka-Georai, District-Beed.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Principal Secretary,
Urban Development Department,
Mantralaya, Mumbai,
- 2) The Maharashtra State Election Commission,
Through its Commissioner,
First Floor, New Administrative Building,
Hutatma Rajguru Chowk,
Madam Cama Road, Mumbai-400032,
- 3) The Deputy Commissioner,
The Maharashtra State Election Commission,
First Floor, New Administrative Building,
Hutatma Rajguru Chowk,
Madam Cama Road, Mumbai-400032,
- 4) The District Collector, Beed,
The Collectorate Office, Beed,
- 5) The Returning Officer,
For the Election of Municipal Council
Georai-2025,
Georai Municipal Council, Georai,
Taluka-Georai, District-Beed.

...RESPONDENTS

...
Mr. Sandip R. Andhale Advocate for Petitioner.
Mr. S.B. Narwade, A.G.P. for Resp. No.1.
Mr. Sachindra Shetye Advocate a/w. Ms. Sharayu Dhanture
Advocate, Mr. Akshay Pansare Advocate for Respondent
Nos.2 and 3.
...

**CORAM: SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.**

DATE : 28th NOVEMBER, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Heard learned Advocate for the petitioner and learned Advocate Mr. Shetye for respondent Nos.2 and 3. The petitioner is contesting the seat from Ward No.11-B for Georai Municipal Council election. In Ward No.11 there are two seats i.e. Ward No.11-A and 11-B. Ward No.11-A is reserved for Other Backward Class Woman candidate and Ward No.11-B is reserved for General Category. The election programme was declared on 5th November 2025 and the nominations have been filled in. The petitioner's candidature has been accepted. However, one Smt. Doordanabegam Salim Faruqi, who had filled her nomination from from Ward No.11-A and which was accepted, unfortunately expired. Thereafter the communication has been sent by the returning officer, Georai and ultimately a decision has been taken

by respondent No.3 on 26th November 2025 for stoppage of the election process further for the whole ward.

2. Learned Advocate for the petitioner submits that in fact the election for the ward No.11-B can go ahead and thereby the election cannot get affected. In fact the election for the Ward No.11-A ought to have been only stopped. He relies on the decision of this Court in ***Pathan Iliyas Khan Abdul Majid Khan and others vs. State of Maharashtra and others, 2012(5) Bom.C.R. 721***, wherein it has been held that:-

“Amendment of Rule 34 of Rules, has as per per unamended Rule it was obligatory to declare result for reserved category first and then excluding candidates occupying reserved seats. Then all other subjected to further count to see if elected candidates in open seats. Because unsuccessful reserved category candidate had chance to occupy a general (open) seat if they scored more votes than an open category candidate. Thus election was one and it was open to voter to caste his vote in favour of only reserved or unreserved category candidates. Voting was not constituency wise and voter was not to caste only one vote in favour of one of candidates. Now in changed position Election Rule 17, election has been conducted constituency wise and has been so accepted without any objection. Consequently if death has no effect on other election in a multi seat ward unaffected part thereof must be allowed to continue. Respondent are free to have fresh election to reserved seat.”

3. Learned Advocate for the petitioner submits that the relevant provisions under Bombay Gram Panchayat (Election) Rules are *para materia* to the Maharashtra Municipal Councils and Nagar Panchayats Election Rules. He states that even distribution of symbols had also been undertaken. Under such circumstance, postponing the election for Ward 11-B will not be in the interest of the State Exchequer also.

4. Learned Advocate Mr. Shetye for respondent Nos. 2 and 3 submits that Ward No.11 has been sub-divided into A and B. As per Section 10(2) of the Maharashtra Municipal Council, Nagar Panchayats and Industrial Townships Act, each ward shall elect only one councillor and therefore, the citizens from Ward No.11 have a right to vote for the candidates from Ward No. A as well as B Division and therefore, the election for the entire ward is required to be stopped /countermand in view of Rule 23 of the Maharashtra Municipal Councils and Nagar Panchayats Election Rules, 1966 (for short "Election Rules"). The rights of the petitioner are not going to be affected but as provided in Rule 23 of the Election Rules, the further proceedings would be then undertaken.

5. Here the facts are not in dispute. Unfortunately, one of the candidate whose candidature has been validly accepted has expired after the election programme i.e. commencement of the election. Rule 23 of the Election Rules prescribes that if a contesting candidate dies and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll in respect of the ward to the election of which the deceased was a candidate and report the fact to the State Election Commissioner or an officer authorized by the State Election Commissioner and all proceeding with reference to the election of such ward shall be commenced a new in all respects, as if for a new election. The word used herein is the "ward". The petitioner himself has produced Annexure-6 of Georai Municipal Council Elections 2025, wherein the reservation of the wards has been shown. Ward No.11 is stated however, it has been divided into A and B. Now this division has been done as per Section 10 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act. Sub-section (2) of Section 10 provides that each of the wards shall elect only one Councillor and then the amendment has been done and proviso has been added that, provided that,

after the commencement of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships (Amendment) Act, 2021, in respect of the general elections to the Municipal Councils, each of the wards shall elect as far as possible two Councillors but not more than three Councillors, and each voter shall, notwithstanding anything contained in sub-section (2) of Section 14, be entitled to cast the same number of votes, as the number of Councillors to be elected in his ward. This proviso has come into effect on 25th January 2022 and therefore, the decision in *Pathan Iliyas Khan Abdul Majid Khan and others vs. State of Maharashtra and others*, (supra), dated 10th July 2012, will not be helpful to the petitioner. Now when each voter has a right to vote and can elect two councillors in the same election for the ward, then there cannot be two times election for the same ward. We, therefore, do not find any illegality in the impugned order. The rights of the petitioner are not going to be affected, they are only postponed. Hence we dismiss the Writ Petition at the threshold.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE