



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

932 WRIT PETITION NO.14471 OF 2025

**KRISHNA PANDIT MUNDE THROUGH HIS
REPRESENTATIVE BALASAHEB VASANTRAO
SUBHEDAR**

VERSUS

THE STATE ELECTION COMMISSION AND OTHERS

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Advocate for the Petitioner : Mr.P.S.Shinde
AGP for Respondent-State : Mr.V.K.Kotecha
Advocate for Respondent no.3 : Mr.R.N.Dhorde, Senior
Advocate i/b. MR.S.S.Dudhane
Advocate for the respondent no.1 : Ms.Sharayu Dhanure

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CORAM : ARUN R. PEDNEKER, J.

DATE : 03.12.2025

P.C. :

1] The petitioner challenges the acceptance of the nomination form of the respondent no.3 by the Returning Officer and thereafter by the Appellate Court under Rule 15 of the Maharashtra Municipal Councils and Nagar Panchayats Elections Rules, 1966.

2] The learned counsel for the petitioner submits that the respondent no.3 has interest in the commercial complex and there is tripartite agreement between the

Municipal Council, respondent no.3 as well as the third party Developer. He further submits that the respondent no.3 has shop in the complex, which is to be developed and he would get possession of his shop. He further submits that shop now is transferred in the name of his brother after starting Code of Conduct.

3] The Returning Officer, so also, the Appellate Court under Rule 15 Maharashtra Municipal Councils and Nagar Panchayats Elections Rules, 1966 has observed the disqualification would not be covered under Section 16 (1) (i) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965. Para no.11 of the order dated 27.11.2025 passed by the District Judge-5, Osmanabad in Election Appeal No.1/2025 reads as under:

11. From a plain reading of sub-clause (3) of Section 16, it becomes clear that a person is not disqualified merely by having any share or interest in a lease. In the present case, the appellant contends that respondent no. 3 accepted a lease from the Municipal Council, Dharshiv. However, from the documents and admitted facts, it is evident that shop no. 14 was allotted to Shivshakti Developers, who subsequently let out the said shop to respondent no.3. Thus, respondent no.3's interest in the shop does not arise from a direct contractual relationship with the Municipal Council; rather, it arises from

a private lease executed by the developer, who had already acquired rights under the execution proceedings. Furthermore presently, the respondent no. 3 has no concern with the said shop, as he has transferred it in favour of Vaibhav Shivajirao Naikal. Even accepting the appellant's version for argument's sake that the Municipal Council directly leased the shop to respondent no.3 but, Section 16 (3) (a) of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 expressly prohibits treating such interest as a disqualification. Hence, the objection raised by the appellant on this point is not tenable.

The proceedings under Rule 15 of the Rules of 1966 are summary in nature and are restricted by the rule itself.

4] Since the findings are disputed on the aspect of the benefit which can be received by the respondent no.3, this Court would not exercise writ jurisdiction and would not re-examine the findings rendered by the authorities below as the proceedings are summary in nature. So also, *prima facie* application of Section 16 (3) (a) is not ex-facie illegal. As such, without rendering any finding on the factual aspects of the matter and applicability of Section 16 (3) (a) to the facts of the present case, the Writ Petition is disposed of, with liberty to seek remedy as is available under the Statute.

5] With the above observations, the Writ Petition is disposed of.

[ARUN R. PEDNEKER]
JUDGE

DDC