



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

953 WRIT PETITION NO.13873 OF 2025

Rahul Ankush Gaikwad

VERSUS

The State Election Commissioner Through Chief Election Commissioner And Others

...

Mr. Mahesh S. Deshmukh h/f Mr. S. S. Gangakhedkar, Advocate for the Petitioner.
Mr. Sachindra Shetye a/w Ms. Sharayu Dhanture, Mr. Audumber Shinde, Mr. Akshay Pansare, Mr.Prithvi Bendke, Advocate for respondent No.1.

...

AND

954 WRIT PETITION NO. 13874 OF 2025

Satish Maruti Borude

VERSUS

The State Election Commissioner Through Chief Election Commissioner And Others

...

Mr. S. S. Gangakhedkar, Advocate for the Petitioner.
Mr. Sachindra Shetye a/w Ms. Sharayu Dhanture, Mr. Audumber Shinde, Mr. Akshay Pansare, Mr.Prithvi Bendke, Advocate for respondent No.1.

...

AND

976 WRIT PETITION NO. 13908 OF 2025

Rajkanya Nilesh Thakur

VERSUS

The State Of Maharashtra And Others

...

Mr. Vinod P. Patil, Advocate for the Petitioner
Mr. R. S. Wani, AGP for Respondent/State.
Mr. Sachindra Shetye a/w Ms. Sharayu Dhanture, Mr. Audumber Shinde, Mr. Akshay Pansare, Mr.Prithvi Bendke, Advocate for respondent No.2.

...

AND

977 WRIT PETITION NO. 13909 OF 2025

Shantabai Sudhakar Wakde

VERSUS

The State Of Maharashtra And Others

...

Mr. A. D. Khot, Advocate for the Petitioner.
Mr. S. B. Narwade, AGP for Respondent/State.
Mr. Sachindra Shetye a/w Ms. Sharayu Dhanture, Mr. Audumber Shinde, Mr. Akshay Pansare, Mr.Prithvi Bendke, Advocate for respondent No.2.

...
AND
979 WRIT PETITION NO. 13915 OF 2025

Naima Sayyed Ahemad Quadri
VERSUS
The State Election Commission Through Chief Election Commissioner And Others

...
Mr. S. S. Gangakhedkar, Advocate for the Petitioner.
Mr. A. M. Phule, AGP for Respondent/State.
Mr. Sachindra Shetye a/w Ms. Sharayu Dhanture, Mr. Audumber Shinde, Mr. Akshay Pansare, Mr.Prithvi Bendke, Advocate for respondent No.2.

...
AND
980 WRIT PETITION NO. 13916 OF 2025

Nitin Mandalal Jain
VERSUS
State Election Commissioner And Others

...
Mr. Sanket S. Kulkarni, Advocate for the Petitioner.
Mr. S. B. Pulkundwar, AGP for Respondent/State.
Mr. Sachindra Shetye a/w Ms. Sharayu Dhanture, Mr. Audumber Shinde, Mr. Akshay Pansare, Mr.Prithvi Bendke, Advocate for respondent No.1.

...
AND
WRIT PETITION NO.13949 OF 2025

Rajendra Ganeshrao Deshmukh
Versus
The State of Maharashtra and others

...
Mr. S. R. Andhale, Advocate for the petitioner.
Mr. S. K. Tambe, AGP for respondent/State.
Mr. Sachindra Shetye a/w Ms. Sharayu Dhanture, Mr. Audumber Shinde, Mr. Akshay Pansare, Mr.Prithvi Bendke, Advocate for respondent No.2.

...
AND
WRIT PETITION NO.13950 OF 2025

Prakash Marshal Sansare
Versus
The State Election Commission Through Chief Election Commissioner and others

...
Mr. Rahul R. Karpe, Advocate for the petitioner.
Mr. Sachindra Shetye a/w Ms. Sharayu Dhanture, Mr. Audumber Shinde, Mr. Akshay Pansare, Mr.Prithvi Bendke, Advocate for respondent No.1.

...
AND
WRIT PETITION NO.13948 OF 2025

Shankar Murlidhar Lokhande
Versus
The State Election Commission Through Chief Election Commissioner and others
...
Mr. Rahul R. Karpe, Advocate for the petitioner.
Mr. Sachindra Shetye a/w Ms. Sharayu Dhanture, Mr. Audumber Shinde, Mr. Akshay Pansare, Mr.Prithvi Bendke, Advocate for respondent No.1.

...
AND
WRIT PETITION NO.13951 OF 2025

Sachin Jagdish Nagpure
Versus
The State Election Commission Through Chief Election Commissioner and others
...
Mr. Rahul R. Karpe, Advocate for the petitioner.
Mr. Sachindra Shetye a/w Ms. Sharayu Dhanture, Mr. Audumber Shinde, Mr. Akshay Pansare, Mr.Prithvi Bendke, Advocate for respondent No.1.

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

DATE : 21 NOVEMBER 2025

ORDER :

. Heard learned Advocates appearing for the respective parties in respective petitions.

2. In all the petitions, the petitioners are challenging the communication dated 18.11.2025 given on behalf of respondent/State Election Commissioner to all the Collectors (except Mumbai City and Mumbai Suburb).

3. Learned Advocate Mr. Mahesh Deshmukh holding for learned Advocate Mr. S. S. Gangakhedkar in Writ Petition No.13873 of 2025 has submitted that earlier respondent No.2/State Election Commissioner had given a communication dated 17.11.2025 to all the Collectors except Mumbai City and Mumbai Suburb in respect of upcoming elections for 246 Municipal Councils and 42 Nagar Panchayats. The guidelines as per the said communication were in the form of question and answer. They were clear enough indicating that how nomination forms can be accepted from a candidate sponsored by the political party. It is stated that a recognized political party can set up two candidates in the fray of elections and what is to be done if one of the nominated candidates withdraws or his nomination form gets rejected. As a matter of fact, until 16.11.2025 the aspect as regards setting up two candidates by recognized political party was governed by Rule 12(2) of the Rules of 1966 and there was no ambiguity about acceptance of nominations of more than one candidate set up by recognized political party. Since Annexure-2, which is being called as “A-B” form, have clearly specified the primary candidate and secondary/dummy candidate so proposed by the respective political party, it is unanimously clear that AB forms are provided by respondent No.1 in the light of their order dated 05.05.2025. The said communication dated 17.11.2025 also provided for distribution of the symbol, as to what would

be the position after the scrutiny form of one person gets rejected etc. As per the programme of election, withdrawal of nominations was till 17.11.2025. Thereafter the impugned communication dated 18.11.2025 has been issued stating that in case of recognized political party, if there is only one proposer for the dummy candidate when nomination form is submitted, then in such circumstance, the nomination form/application of the dummy candidate should be rejected. It is then also stated that, if the dummy candidate's nomination application is supported by signatures of five supporters and if that dummy candidate is complying with all the documents and terms and conditions, then his nomination can be considered as independent candidate. By this communication, the earlier communication dated 17.11.2025 was cancelled. This is in the midst of the election process, which is arbitrary and when the game had once started, it could not have been so aborted.

4. He relies on the decisions in **Union Territory of Ladakh and Ors. vs. Jammu and Kashmir National Conference and another**, [AIROnline 2023 SC 739], **Tej Prakash Pathak and others Vs. Rajasthan High Court and others**, (2025) 2 SCC 1, **Anmol vs. Union of India and others**, [2025 SCC OnLine SC 387, **Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and others**, AIR 1999 SC 22, **Maharashtra Chess Association Vs.**

Union of India and others, (2020) 13 SCC 285, Sarla Sopan Bopale vs. State of Maharashtra and others, 2001(1) Mh.L.J. 453] and especially, on **Election Commission of India Through Secretary vs. Ashok Kumar and others, [2000 (6) SCALE 182]**. He submits that though there is alternate remedy available under Rule 15 of the Maharashtra Municipal Council and Nagar Panchayat Election Rules, 1966 before learned District Judge, yet the petitioner cannot challenge the impugned communication dated 18.11.2025 in that proceeding.

5. Learned Advocate Mr. Vinod Patil appearing for the petitioner in Writ Petition No.13908 of 2025 tried to demonstrate it by the nomination forms by stating that the recognized candidate has withdrawn her nomination and, therefore, the petitioner in his petition would be entitled in view of the communication dated 17.11.2025.

6. Learned Advocate Mr. Karpe, after adopting the arguments by the other Advocates, also tried to submit that in fact there was no necessity to give any further clarification immediately on the next date. He also reiterate that because of the impugned communication dated 18.11.2025, the right to contest election of the petitioner has been taken away in the midst of election process by changing the rules of game. If those rules, which now tried to be introduced by way of communication dated

18.11.2025, were made known earlier, then the petitioners would have filed the nomination paper accordingly. Learned Advocates appearing in other matters have adopted these submissions.

7. Learned AGP waives notice for respondent/State and learned Advocate Mr. Shetye, who was appearing through Video Conferencing waives notice for respondent/State Election Commission. He submits that none of the petitioners is challenging that respondent/State Election Commission has power and authority under the law to frame the rules. He relies on the decision in **Maroti Sakharan Wasejar vs. Tahsildar, Mul and another**, [1999 (2) Mh.L.J. 550]. After relying on the decision of this Court in **Writ Petition No.3962 of 1998**, the Division Bench had expressed an opinion that once there is a bar to the petitions under Article 226 pertaining to election matter as contemplated by Articles of Constitution of India, the relevant Article in that matter, being 43-ZG(b) the word election would also include rejection or acceptance of nomination papers and therefore could not be a subject of matter of writ jurisdiction under Article 226 of the Constitution of India. Further, reliance was then placed on the decisions in **Farook Ali Khan and others Vs. Maharashtra State Election Commission and others**, [1998 (2) Mh.L.J. 750] as well as **Boddula Krishnaiah vs. State Election Commissioner, AP, AIR 1996 SC**

1595] in the said ruling. It was also clearly observed in **Maroti Sakharam Wasekar (Supra)** that the relevant provisions and Articles of Constitution of India with regard to the Panchayat Elections and Zilla Parishad would be *pari materia* and the doctrine of self restraint will have to be applied. He further relies on the order passed by the Coordinate Bench of Circuit Bench of this Court at Kolhapur in **Suraj Sukhpal Solanki vs. State of Maharashtra and another**, [Writ Petition No.12415 of 2025 dated 20.11.2025], which is in respect of the ongoing election process wherein it was accepted that when the statutory remedy by way of appeal is made available when the nomination is rejected, the writ petition was then disposed of with liberty to the petitioner to approach the District Court.

8. Here, two aspects are there. The petitioners in Writ Petition Nos.13950 of 2025, 13951 of 2025, 13948 of 2025, 13873 of 2025, 13874 of 2025, 13908 of 2025, have filed their appeals before the District Court, as has been stated by the respective petitioners. Though the learned Advocate Mr. Mahesh Deshmukh has made a statement that he will not press for prayer clause 'C' in the matters, the fact remains is that there is a statutory appeal that has been provided as per Rule 15 of Maharashtra Municipal Council Council and Nagar Panchayat Election Rules, 1966 and, therefore, it cannot be the question of Writ Petition or that point

cannot be then considered. In other words, we would like to restrain ourselves from directing the returning officers, by way of interim or ad-interim relief to accept the nomination forms. However, as regards the other prayers i.e. challenge to the letter dated 18.11.2025 is concerned, it will have to be gone into as to whether respondent/State Election Commission was justified in changing the rules in the midst of the election. We will have to test it on the basis of the decision in **Ashok Kumar (Supra)** and, therefore, we issue **Rule**.

9. We issue notice to the respondents after the Rule. Learned respective AGPs waive notice for respondents/State in respective matters. Learned Advocate Mr. Sachindra Shetye waives notice for respondents/State Election Commission in all the matters. Notice of respondents/returning officers in all the matters is made returnable on 10.12.2025.

10. If respondents desire, they should file affidavit-in-reply within a period of two weeks from today. Copy of the same be given to the other side in advance.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm