



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

WRIT PETITION NO. 14354 OF 2025

PRIYANKA YOGESH GAVHANE,
AGED 22 YEARS, OCCU. HOSEHOLD,
R/O. KAHARWADA, PAITHAN, TQ. PAITHAN,
DIST. CHH. SAMBHAJINAGAR .. **Petitioner**

VERSUS

1. THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY
URBAN DEVELOPMENT DEPARTMENT,
MANTRALAYA, MUMBAI - 400032
2. THE STATE ELECTION COMMISSION, MAHARASHTRA,
THROUGH THE STATE ELECTION COMMISSIONER,
8TH FLOOR, NEW ADMINISTRATIVE BUILDING,
MADAM CAMA ROAD, HUTATMA RAJGURU CHOWK,
OPP. MANTRALAYA, MUMBAI - 400032
3. THE ELECTION RETURNING OFFICER,
GENERAL ELECTION OF MUNICIPAL COUNCIL,
PATTHAN, TAL. PAITHAN, DIST. CHH. SAMBHAJINAGAR
4. THE MUNICIPAL COUNCIL, PAITHAN,
THROUGH ITS CHIEF OFFICER,
TAL. PAITHAN, DIST. CHHATRAPATI SAMBHAJINAGAR
5. MONA JEETSINGH KARKOTAK,
AGED 28 YEARS, OCCU. HOUSEHOLD,
R/O. PARDESHIPURA, PAITHAN, TQ. PAITHAN,
DIST. CHH. SAMBHAJINAGAR
6. NEETA BHARATSINGH KAYST,
AGED 45 YERAS, OCCU. SERVICE,
R/O. PARDESHIPURA, PAITHAN, TQ. PAITHAN,
DIST. CHH. SAMBHAJINAGAR
7. ALKABAI GOPALSINGH PARDESHI,
AGED 55 YEARS, OCCU. HOUSEHOLD,
R/O. PARDESHIPURA, PAITHAN, TQ. PAITHAN,

DIST. CHH. SAMBHAJINAGAR

.. Respondents

....

AND

...

WRIT PETITION NO. 14355 OF 2025

SIDHARTH GOPAL PARDESHI,
AGED 34 YEARS, OCCU. BUSINESS,
R/O. PARDESHIPURA, PAITHAN, TQ. PAITHAN,
DIST. CHH. SAMBHAJINAGAR

.. Petitioner

VERSUS

1. THE STATE OF MAHARASHTRA
THROUGH ITS PRINCIPAL SECRETARY
URBAN DEVELOPMENT DEPARTMENT,
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2. THE STATE ELECTION COMMISSION, MAHARASHTRA,
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PATTHAN, TAL. PAITHAN, DIST. CHH. SAMBHAJINAGAR
4. THE MUNICIPAL COUNCIL, PAITHAN,
THROUGH ITS CHIEF OFFICER,
TAL. PAITHAN, DIST. CHHATRAPATI SAMBHAJINAGAR
5. SANDIP JANARDHAN AHER,
AGED 40 YEARS, OCCU. BUSINESS,
R/O. UWAKE GALI, JAINPURA, PAITHAN,
TQ. PAITHAN, DIST. CHH. SAMBHAJINAGAR
6. GOPICHAND HARISHCHANDRA GAVHANE,
AGED 62 YEARS, OCCU. PENSIONER,
R/O. 367/A, NIMBARKA HOSPITAL,

NAVIN KAVSAN, PAITHAN, TQ. PAITHAN,
DIST. CHH. SAMBHAJINAGAR

7. MANOJ AMBADAS DHAWLE,
AGED 30 YEARS, OCCU. AGRIL,
R/O. JAINPURA, PAITHAN, TQ. PAITHAN,
DIST. CHH. SAMBHAJINAGAR
8. YOGESH ANKUSHSINGH PARDESHI,
AGED 40 YEARS, OCCU. BUSINESS,
R/O. PARDESHIPURA, PAITHAN, TQ. PAITHAN,
DIST. CHH. SAMBHAJINAGAR
9. ASHVIN CHANDANSINGH LAKADHAR,
AGED 26 YEARS, OCCU. BUSINESS,
R/O. PARDESHIPURA, PAITHAN, TQ. PAITHAN,
DIST. CHH. SAMBHAJINAGAR
10. BAJRANG BHAUSINGH LIMBORE,
AGED 42 YEARS, OCCU. BUSINESS,
R/O. MADHAV NAGPAUR, PAITHAN,
TQ. PAITHAN, DIST. CHH. SAMBHAJINAGAR .. **Respondents**

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Mr. V. D. Sapkal, Senior Advocate a/w. Mr. Y. V. Kakade, Advocate
i/b. Mr. Z. H. Farooqui, Advocate for Petitioners
Mr. R. B. Ade, Advocate for Respondent No.7 in WP/14354/2025
Mr. D. R. Korade, AGP for Respondent / State in WP/14354/2025
Mr. R. B. Ade, Advocate for Respondent No.10 in WP/14355/2025
Mr. S. K. Tambe, AGP for Respondent / State in WP/14355/2025
Mr. Sachindra Shetye a/w. Ms. Sharayu Dhanture & Mr. Akshay
Pansare, Advocate for the State Election Commission

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CORAM : ARUN R. PEDNEKER, J.
Reserved on : 02.12.2025
Pronounced on : 04.12.2025

JUDGMENT:

1. Rule. Rule returnable forthwith. Due to urgency, heard finally.

2. Heard Mr. V. D. Sapkal, Senior Advocate along with Mr. Y. V. Kakade, Advocate instructed by Mr. Z. H. Farooqui, Advocate for Petitioners, Mr. R. B. Ade, Advocate for Respondent No.7 in WP/14354/2025, Mr. D. R. Korade, AGP for Respondent / State in WP/14354/2025, Mr. R. B. Ade, Advocate for Respondent No.10 in WP/14355/2025, Mr. S. K. Tambe, AGP for Respondent / State in WP/14355/2025, Mr. Sachindra Shetye along with Ms. Sharayu Dhanure & Mr. Akshay Pansare, Advocate for the State Election Commission.

3. By the present petitions the petitioners challenge the impugned orders dated 28.11.2025, passed by the appellate court under Rule 15 of the Maharashtra Municipal Councils and Nagar Panchayats Election Rules, 1966 (for brevity "***the Election Rules***"), whereby the nominations of the petitioners i.e. Sidharth Gopal Pardeshi (WP/14355/2025) and Priyanka Yogesh Gavhane (WP/14354/2025) are rejected by setting aside the orders of the Returning Officer accepting the nomination of the petitioners filed for the election of Ward No.6 (Seat 6-A & 6-B) of Paithan Municipal Council. The order dated 28.11.2025 passed by the appellate court in Election Petition No.6/2025 was rectified on 29.11.2025 by observing that in the title cause of the Judgment, names of respondents No.3 to 8 are mistakenly copied from other election

appeal. As it is a typing mistake, name of respondents no.3 to 8 are deleted and respondents no.3 to 5 are corrected and, accordingly, respondent no.3's name Priyanka Yogesh Gavhane was mentioned in the cause title and her nomination was set aside at the instance of the objector / appellant Alkabai.

4. Although, this court would be very slow in entertaining writ petition against the orders of the Returning Officer or the appellate authority in exercise of writ jurisdiction, however, on account of intervening event of postponement of election and peculiar facts and circumstances of this case it has become necessary for this court to examine the issues raised and deal with the same.

5. The elections are already postponed by the Notification dated 29.11.2025, wherein it is mentioned that wherever the appellate court has passed orders under Rule 15 of the Election Rules after 22.11.2025 i.e. on 23.11.2025 or thereafter the nominated candidates did not have the opportunity to withdraw their nomination and in all these cases the elections are stayed and a fresh election programme would be issued on 04.12.2025, wherein last date of withdrawal of candidature would be

10.12.2025 up till 03:00 p.m. and the allotment of symbols would be on 11.12.2025 and the date of polling would be on 20.12.2025.

6. Both these petitions are taken up together as they arise from identical facts and from the same ward of the Paithan Municipal Council. The facts are taken from Writ Petition No.14355 of 2025.

FACTS OF THE CASE:-

7. On the direction of the State Election Commission, the State Government published a Gazette Notification dated 30.09.2025 in exercise of powers under Sections 9, 10 and 341B of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (for brevity "*the Act*"), wherein, the State demarcated the number of wards of the Paithan municipal area as given in the schedule for the Paithan Municipal Council (The schedule provides that the total number of councillors to be elected for Paithan Municipal Council are 25, 2 councillors each for 11 wards, 3 councillors for 1 ward and total wards being 12). We are concerned with Ward No.6 of which the population is 3257. The location is bounded as given in the said notification dated 30.09.2025 and the number of councillors to be elected are 2. Although, there are 2 councillors to be elected from Ward No.6,

there is no sub-division of the ward and both the councillors are to be elected from the same ward by the same electorate.

On direction of the State Election Commission, on 28.10.2025, The District Collector, Chhatrapati Sambhajinagar, issued Notification and finalized the reservation of the wards in terms of the provisions of Section 10 of the Act and here we are concerned with Serial No.11 and 12, Ward No.6, where seat numbers are given for Ward No.6; as 6-A and 6-B. 6-A is for Backward Class of Citizens (Female) and 6-B is for General.

8. It is also to be noted that in a general notification / order dated 25.02.2013, issued by the State Election Commission, it is provided as under:

“ब) राज्य निवडणूक आयोगाच्या क्र. एसइसी/आरपीपी/ २००९/सीआर-४९/ का. ११ दि. ३१/०३/ २००९ (महाराष्ट्र निवडणूक चिन्ह (आरक्षण व वाटप) आदेश २००९) च्या आदेशासोबतच्या जोडपत्र दोन मध्ये अंशतः सुधारणा करण्यात येत असून सुधारित जोडपत्र- १ व जोडपत्र- २ या आदेशासोबत जोडण्यात आले आहे. यामुळे, महानगरपालिका व नगरपालिका / नगरपंचायत निवडणुकांकरिता राजकीय पक्षातर्फे पुरस्कृत करण्यात आलेल्या उमेदवाराने विहित जोडपत्र- १ व जोडपत्र- २ मधील सूचनापत्र नामनिर्देशनपत्र दाखल करावयाच्या अखेरच्या दिवशी दुपारी ३.०० वाजेपर्यंत सादर करणे आवश्यक राहील”

In the said Notification, the State Election Commission has provided improvised format form of Jodpatra-1 (hereinafter mentioned as “**Annexure-1**”) and Jodpatra-2 (hereinafter mentioned as “**Annexure-2**”). It is mentioned that for the elections

of the Municipal Council and Nagar Panchayats the candidates have to annexe Annexure-1 and Annexure-2 latest by the last date of nomination by 03:00 p.m. In the instant case, it would 17.11.2025 by 03:00 p.m.

9. The State Election Commission published Notification on 04.11.2025 for conducting elections to the Municipal Councils and Nagar Panchayats. The Nomination Forms were available on the website from 10.11.2025 to 17.11.2025. The date of acceptance of nomination forms was from 10.11.2025 to 17.11.2025 by 03:00 p.m. The scrutiny of nomination forms and publication of list of validly nominated candidates was 18.11.2025 from 11:00 a.m. The last date of withdrawal of nomination forms was between 19.11.2025 to 21.11.2025 by 03:00 p.m. However, wherever the appeals are preferred against rejection or acceptance of nominations before the appellate authority / court; after 3 days time was granted up till the third day of withdrawal was permitted and the last date being 25.11.2025. On 26.11.2025, the candidates were allotted election symbols and on 02.12.2025 is the date of polling.

10. In the instant case, the petitioner Sidharth Gopal Pardesh in Writ Petition No.14355 of 2025 has filed his nomination

from the Prabhag / Ward No.6-B and has given his Annexure-2 i.e. the authorization from the political party of Ward No.6-A. The same was filed on 17.11.2025. On 18.11.2025, the Returning Officer *suo-motu* rejected the nomination of the petitioner on the ground that the authorization i.e. Annexure-2 was from Ward No.6-A and the nomination filed was for 6-B. The petitioner filed appeal under Rule 15 of the Election Rules being Election Petition No.1/2025 against the order of the Returning Officer dated 18.11.2025. It was contended that the petitioner was not given hearing and opportunity to rectify the errors. The appellate court noticed that the appellant has filed nomination for election from Ward No.6, Seat No.6-B. He has deposited requisite amount for contesting the election. Political party has authorized him to contest the election. However, the form issued by the political party i.e. Annexure-2 is for Ward No.6-A and, thus, the Returning Officer rejected the nomination of the petitioner as he had not filed Annexure-2 of Ward No.6, Seat No.6-B. It was found that the Returning Officer on his own motion had rejected the nomination and, thus, the appellate court held that respondent no.1 being the Returning Officer shall scrutinize the nomination paper of the petitioner afresh, after affording the petitioner an opportunity of hearing. The said order by the appellate court was passed on 24.11.2025.

11. On 25.11.2025, the petitioner provided fresh Annexure-2 for Ward 6, Seat 6-B to the Returning Officer. However, it was not taken on record as the last date for filing the same was already over on 17.11.2025. The Returning Officer passed a fresh order on 25.11.2025, wherein she has taken into consideration the earlier Annexure-2, which was filed along with the nomination on 17.11.2025 and accepted the nomination of the petitioner on 25.11.2025. Respondent No.10 - Bajrang Bhausingh Limbore filed appeal under Rule 15 of the Election Rules, on 25.11.2025, which was registered on 26.11.2025. Meanwhile, on 26.11.2025, the petitioner along with other nominated candidates were granted election symbols and the list of nominated candidates along with symbols was published. In the appeal filed by respondent no.10 notice was issued and, as such, the present petitioner filed objection contending that the appeal ought to have been filed and decided on 25.11.2025. The appeal being registered on 26.11.2025, the same is not maintainable as in terms of the election programme election symbols are already allotted. The court on consideration of the contention of the parties, observed that the petitioner did not have the authorization of the political party as far as Ward No.6, Seat No.6-B is concerned and, held that the nomination of the petitioner ought to have been rejected by the Returning Officer. Thus, by impugned order dated 28.11.2025, the nomination of the

petitioner was rejected by the appellate court. Similar order was also passed in the connected appeal, which is challenged in the connected Writ Petition No.14354 of 2025. However, the appellate court order was further corrected in the case of Priyanka Gavhane by further order dated 29.11.2025.

SUBMISSIONS:-

12. The petitioner challenges the impugned order dated 28.11.2025, on the grounds hereinafter referred. **Mr. V. D. Sapkal**, learned Senior Advocate appearing for the petitioners submits that the appellate powers under Rule 15 of the Election Rules could not have been exercised by the appellate court after 25.11.2025 and the limitation on the power of the appellate court has to be inferred from the Rules. The last date of the allotment of symbols is 26.11.2025 and that no adjudication by the appellate court is warranted after 25.11.2025. Once the date of allotment of symbol has passed by and the allotment of symbols is made, the appellate court has to keep it's hands off and remit the appellant to seek remedy by way of an election petition. It is also the mandate of the Constitution of India under Article 245ZG. He submits that the order being passed by the appellate court after allotment of the symbols would amount to interference in the election process and that the same could have not been passed by the appellate court

under Rule 15. He also submits that if an indefinite time frame is given to the appellate court to adjudicate, then the order could be passed by the appellate court one day prior to the elections setting aside the nomination and a political party may remain unrepresented. In the instant case, both the candidates are from one political party and their candidature would be removed by the orders of the appellate court. He submits that the orders passed by the appellate court is beyond jurisdiction and illegal.

The second submission of the learned counsel for the petitioner is that under Rule 12(2) and in view of the above noted Notification dated 25.02.2013, the nomination form should be presented along with Annexure-2 before the last date of nomination. Rule 12 particularly use the word "Ward". In the instant case, we refer to Ward No.6 and there are 2 candidates to be elected from the same ward i.e. Ward No.6. There is no further sub-division of ward in terms of the Act and Rules.

The learned counsel for the petitioner points out Section 10 (2) of the Act and, submits that, each ward would elect only 1 councillor. However, amendment is brought in the year 2022, whereby it is provided that after the commencement of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships (Amendment) Act, 2021, in respect to the general elections of Municipal Councils each ward shall elect as far as

possible 2 councillors but not more than 3 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.

He submits that the amendment of 2021 is brought into effect on 25.01.2022. There is no change in the ward. The change is as regards the number of councillors that can be elected from the ward. Prior to the amendment of 2021 from the ward only 1 councillor could be elected and by virtue of the amendment multiple councillors are elected from the same ward and each voter would cast multiple votes depending upon the number of councillors to be elected. He submits that there is no sub-division of the ward and that no distinction can be made between the candidates of the same ward by sub-division of the wards as there is no sub-division of ward under the Act or the Rules. Thus, the distinction made on the basis of seats in the instant case of 6-A and 6-B is the superficial one. There are 2 councillors to be elected from Ward No.6, 1 from the reserved category and one from the non-reserved category. Even, the Annexure-2 given by the Election Commission only refers to the Ward, it does not refer to the seat number. So mentioning of the seat number in addition to the ward number is merely a superfluous exercise. He further submits that in the instant case it is to be seen that the candidates have filled

nomination in Ward No.6 for the reserved or unreserved seat and it could have suffice the purpose and the form (Annexure-2) attached would be only of Ward No.6 for reserved or unreserved category. There is large confusion after the amendment of the year 2021. He submits that the Annexure-2 (*Jodpatra*) provided by the Election Commission are of 2013, whereas the seat bifurcation is done by the Collector on account of the provisions of Section 10 as an independent exercise for the purpose of reservation although there is no separate concept of seat within the ward. He submits that even otherwise the same is superfluous and both the candidates in the instant case has given their Annexure-2; one in the women reserved category and another in open category of Ward No.6. of the same political party and both the Annexure-2 forms ought to have been accepted. Mentioning of 'A' or 'B' in Ward No.6 is of not much relevance and ought to have been ignored or permitted to be rectified.

13. Per contra, **Mr. Sachindra Shetye** along with **Ms. Sharayu Dhanture & Mr. Akshay Pansare**, Advocates for the State Election Commission submits that, Paithan Municipal Council follows a multi-member ward system wherein every ward elects two Councillors one from seat "A" and one from seat "B". By the reservation order dated 28.10.2025, Ward No. 6-A was reserved for

Backward Class of Citizens (Women) and Ward No. 6-B was kept General (Open). The last date and time for filing nomination papers was 17.11.2025 up to 3.00 p.m. The Petitioner filed his nomination on 16.11.2025 from the reserved seat 6-B, which was for General category without the authorization letter in Form "B" issued by the political party which fielded him. On 17.11.2025, at 2.30 pm., the Petitioner submitted the Forms "A" and "B" issued by the political party which fielded him. In Form "B" (communication of the party authorising the candidate and the symbol), the party had clearly mentioned Ward No. 6-A (which was reserved for Backward Class of Citizens (Women)). During scrutiny on 18.11.2025, the Returning Officer rejected the nomination form because the Nomination Form of the Petitioner was filed for seat 6-B, the "AB" form filed by the Petitioner mentioned that he was authorized to file his nomination from seat 6-A. The petitioner preferred Election Petition No. 01/2025. The learned District Judge, by order dated 24.11.2025, remanded the matter to the Returning Officer for fresh consideration on the ground that the Petitioner was not afforded an opportunity for hearing. In fact, every candidate is given an acknowledgment when he/she submits his/her nomination form in which the date and time of scrutiny is mentioned. No separate notice is issued to any candidate. The candidate has a choice to be present or remain absent. On 25.11.2025 (i.e., seven days after the

last date of nomination had expired), the Petitioner submitted a fresh Form "B" now mentioning Ward No. 6-B, which ought not to have been accepted. The Returning Officer accepted the Form "B" and held the Nomination of the Petitioner to be valid on the same day, which is a violation of paragraph 20 (2) (d) of the Order dated 5/5/2025 of the State Election Commission. This acceptance was challenged by another contesting candidate (Bajrang Bhausingh Limbore) in Election Petition No. 05/2025. The learned District Judge, after hearing the parties, by the impugned order dated 28.11.2025, allowed the appeal and set aside the acceptance of the petitioner's nomination. The above-mentioned petition has been filed challenging the order dated 28/11/2025 by which the appeal was allowed and the nomination form of the Petitioner was rejected. It is further submitted that Form "B" must specifically and correctly mention the particular seat/ward for which the candidate is set up by the party. If there is any mismatch between the seat mentioned in the nomination form and the seat mentioned in Form "B", the nomination becomes invalid. No fresh or corrected Form "B" can be accepted after the expiry of the last date and time fixed for filing of nominations (i.e., after 3.00 p.m. on 17.11.2025). The remand order passed in the first appeal did not and could not extend the statutory time limit for filing or curing defects in nomination papers. In the present case, the original Form "B"

submitted on 16.11.2025 was admittedly for Ward No. 6-A (BCC-Women). The correct Form "B" for Ward No. 6-B was submitted only on 25.11.2025, which is impermissible in law. The Returning Officer, therefore, had no jurisdiction to accept the new Form "B" and the nomination on 25.11.2025, and the learned District Judge has rightly set aside that acceptance vide the impugned order dated 28.11.2025.

14. Similar are the submissions made by **Mr. R. B. Ade**, learned counsel appearing for the respondents / original appellants before the first appellate court.

CONSIDERATION & CONCLUSION:-

15. Having considered the rival submissions, the questions that arise for consideration are as under:-

{1} Whether the appellate court could not have exercised powers under Rule 15 of the Election Rules to set aside the nomination of the petitioners after the allotment of symbols to the nominated candidates ?

{2} Whether the Returning Officer ought to have given an opportunity to the petitioners / nominated candidates to rectify the Annexure-2 forms in support of nomination on the date of scrutiny ?

{3} Whether the nomination forms are rightly rejected by the appellate court ?

{4} Whether this court in exercise of writ jurisdiction should interfere with the orders of the appellate court or should relegate the petitioners to the remedy as prescribed under the Act ?

16. For ready reference the provisions of the Act and Rules relevant for this matter are noted below:

Section 10 (2) Proviso of the Act

“10. Division of municipal area into wards and reservation of wards for women, Scheduled Castes and Scheduled Tribes:

...

(2) Each of the wards shall elect only one Councillor.

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.”

Rule 12(2) of the Election Rules

“(2) Every nomination paper shall be in the form specified by the State Commission which shall be supplied by the Returning Officer to any voter on demand. The nomination paper 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.”

Rule 13(2) of the Election Rules

“(2) The Returning Officer shall examine the nomination papers and decide all objections which may be made to any nomination, and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, reject any nomination paper on any of the following grounds, that is to say,-

(a) that the candidate is not qualified or is disqualified for election under the Act.

(b) that the proposer is not qualified to nominate the candidate;

(c) that there has been a failure to comply with any of the provisions of the Act or prescribed by these rules;

(d) that the candidate or proposer is not identical with the person whose electoral number is specified in the nomination paper as the number of such candidate or proposer, as the case may be;

(e) that the signature of the candidate or the proposer on the nomination paper is not genuine or is obtained by fraud.”

Rule 13(4) of the Election Rules

“(4) The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character.”

Rule 13(5) of the Election Rules

“(5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under clause (d) of sub-rule (1) of rule 4 and shall not allow any adjournment of the proceedings, except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control :

Provided that, in case any objection is raised by the Returning Officer or is made by any other person, the candidate concerned may be allowed time to rebut it not later than the next day, and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned.”

Rule 13(6) of the Election Rules

“(6) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.”

Rule 15(1) of the Election Rules

“(1) An appeal shall lie to the District Judge of the district in which the municipal area is situated as herein provided from any decision of a Returning Officer accepting or rejecting a nomination paper.”

Rule 15(2) of the Election Rules

“(2) Any candidate aggrieved by a decision of the Returning Officer accepting or rejecting a nomination paper, may present an appeal therefrom to the District Judge within a period of three days from the date of publication of the list of validly nominated candidates :

Provided that, where an appeal is presented, such candidate shall, not later than 3 o'clock in the afternoon of the day next following the date of

presentation of the appeal to the District Judge, give a notice of the appeal to the Returning Officer.”

Rule 15(7) of the Election Rules

*“(7) Every appeal under this rule shall be heard *dedien diem* and disposed of by the District Judge as expeditiously as possible, and his decision shall be communicated forthwith to the Returning Officer.”*

Rule 15(9) of the Election Rules

“(9) In every case where notice of any appeal has been given to the Returning Officer, he shall, upon receipt of the communications of the District Judge referred to in sub-rule (7), republish by affixing to his notice-board the list of validly nominated candidates after revising it, if necessary in conformity with the decision of the District Judge.”

Rule 15(10) of the Election Rules

“(10) The decision of the District Judge on appeal under this rule, and subject only to such decision, the decision of the Returning Officer, accepting or rejecting the nomination of a candidate shall be final and conclusive and shall not be called in question in any Court.”

17. With respect to the issue raised as regards the jurisdiction of the first appellate court to decide the pending appeal within certain time frame, sub-rules 2, 7 and 9 of Rule 15 are of relevance. Sub-rule 2 of Rule 15 provides that any candidate aggrieved by the decision of the Returning Officer of rejection or acceptance of nomination can prefer an appeal to the District

Judge within a period of 3 days from the date of publication of list of validly nominated candidates. In the instant case, the nomination of the petitioner was earlier rejected on 18.11.2025. In the appeal preferred, the order of the Returning Officer was set aside and the matter remitted back for fresh scrutiny to the Returning Officer. (Whether the appellate court could have remitted the matter back is not an issue before me and, therefore, I have not dealt with this aspect of the matter.) Thereafter, on remand, the Returning Officer passed order dated 25.11.2025 accepting the nomination of the petitioner and on 25.11.2025, appeal was preferred by one of the candidate and the same was registered on 26.11.2025. Sub-rule 9 of Rule 15 provides that the Returning Officer after receipt of communication of the District Judge referred in sub-rule 7 shall republish by affixing to his notice board the list of validly nominated candidates after revising it, if necessary in conformity with the decision of the District Judge.

18. The election symbols are given to the candidates on 26.11.2025. The decision in appeal is rendered on 28.11.2025 and, thereafter corrected on 29.11.2025 in one of the case. After the order is passed in appeal under Rule 15, the Returning Officer is expected to re-publish the list of nominated candidates by deleting

the names of the petitioners. Publication of the validly nominated list is expected before the last date of withdrawal of nomination. However, the election process has proceeded further and on 26.11.2025 election symbols are allotted and interference at this stage by the appellate court under Rule 15 of the Election Rules would disturb the entire election programme. As such, any decision by the District Court in appeal under Rule 15 upsetting the order of the Returning Officer has to be necessarily restricted before the last date of withdrawal of nomination allowing the candidates, if required, to withdraw their candidature and the decision given in appeal cannot be implemented in any event after the election symbols are allotted to the validly nominated candidates. After the election symbols are allotted to the validly nominated candidates and the list is published, the deletion of the name of the candidates would create confusion in the electorate. List of nominated candidates along with their election symbols is a last part of election programme before the elections and, there can be no change of candidates even by withdrawal as the electorate and all concerned acts upon list of candidates along with their symbols. Although, there is no time limit provided in the appeal provision to pass order, implementation of any order passed under Rule 15 of the Election Rules by the appellate court reversing the order of the Returning Officer after allotment of the symbols and

publication of the list of the nominated candidates along with their symbols should be restricted. The only remedy for wrongful acceptance or rejection of nomination after the date of publication of list of candidates with their allotted symbols is an election petition as provided in the Act.

However, in the instant case, the elections are postponed as by a general order, where decisions are taken by the appellate court under Rule 15 of the Election Rules after 22.11.2025 i.e. from 23.11.2025, as the nominated candidates did not have time for withdrawal of their nominations. The last date for withdrawal of nomination is 10.12.2025 and allotment of symbol is 11.12.2025. As such, the order of the appellate court in the instant case under Rule 15 can be implemented if not interfered with by the writ court.

19. Coming to the next issue, on merits in the case, whether the appellate court has rightly exercised its authority under Rule 15 of the Election Rules by rejecting the nominations of the petitioners by setting aside the order of the Returning Officer and whether this court in exercise of writ jurisdiction ordinarily can interfere with the order of the appellate court. This court would not entertain writ petition if it disturbs an ongoing election process, however, there is no complete bar to entertain the writ petition,

where the interference would subserve the election process. The general principle of law in this regard is that the power of the writ court to exercise the writ jurisdiction is not completely barred in entertaining the writ petition if it subserves the election process.

20. The Full Bench of this Court in the case of **Karmaveer Tulshiram Autade and others Vs. State Election Commission, Mumbai and others, 2021 (2) Mh.L.J. 349**, after elaborately discussing the relevant Hon'ble Supreme Court's Judgments, more particularly, at paragraph no.46, has observed as under:

“46. The essence of the above discussion is that a writ petition could be barred if it seeks to call in question a step in election, but if the approach to the Court is to facilitate free and fair completion of election, such approach would not be barred.”

21. In the instant case, the elections are postponed and any interference at this stage for valid reasons would not affect the on going election process. The elections are postponed by the election authority themselves and, as such, this court would entertain the petition if there is a grave miscarriage of justice and if the interference would subserve the cause of free and fair elections.

22. The nomination is filed by the petitioner (Sidharth Pardeshi) for Seat 6-B, whereas he has filed Annexure-2 along with the nomination for Seat 6-A and vice-versa in case of

connected writ petition. It is to be seen that in Ward No.6; 2 Councillors to be elected by the same electorate. One for reserved candidate women and another for unserved candidate. 6-A relates to "Backward Class Citizen (Female)" and 6-B relates to General. The candidate Mr. Sidharth Pardeshi is a male candidate who has given his nomination for 6-B and the form of the political party supporting it is of 6-A. The writ petitioner Priyanka Gavhane filed her nomination for 6-A and supporting form (Annexure-2) is of 6-B. Errors have crept into the Annexure-2 of the petitioners. Although, there is no sub-division of wards in the Act or the Election Rules, the Notification dated 28.10.2025, issued for reservation purpose under Section 10 of the Act shows the final reservation for the Municipal Council, Paithan in Annexure-7 and 8, wherein at serial no.11 and 12 Seat No.6-A is for Backward Class of Citizen (Female) and 6-B is for General. Both the candidates have filed the nominations for 1 seat and the Annexure-2 was for a different seat from the same ward. After the amendment of 2021 made to Section 10 as noted above, there are no changes made in the Rules or to the Annexure-2 form issued by the State Election Commission. The Notification of the District Collector under Section 10 for the purpose of reservation may be of some relevance, since, the Notification is issued after the amendment Act of 2021 and with the directions of the State Election Commission and the seat

numbers are given in each ward where multiple councillors are elected from the wards. The petitioners have also filed their nomination from Ward No.6 with it's seat number, as 6-B / 6-A.

23. Thus, the objection of the petitioner that as there is no sub-division of ward and the election being of same Ward No.6, the Annexure-2 of Ward No.6 is sufficient enough to accept nomination cannot be accepted as in a given situation it may create conflicting situation as multiple candidates may claim Annexure-2 in their support for the same seat in the ward. Annexure-2 has to be specific to the nominated seat of the ward. Since, the nomination form is specific to Ward No.6, Seat No.6-B, the Annexure-2 in support should also be of 6-B.

24. Coming to the next issue, whether the Returning Officer should have given opportunity to rectify the defect in the Annexure-2, at the time of scrutiny, an identical fact situation arose in a case before the Supreme Court, in the case of **Rakesh Kumar Vs. Sunil Kumar reported in (1999) 2 SCC 489**. The facts in that case are that the Election Commission of India had notified election programme to the Punjab Vidhan Sabha. As per the programme fixed, last date of filing of nominations was 20.1.1997, scrutiny of nominations was to be held on 21.1.1997 and the last

date for withdrawal of candidate/candidature was 23.1.1997. The respondent therein had submitted his nomination paper on 20.1.1997 at 12.10 p.m. as a candidate set up by the BJP along with Form A and B, indicating his candidature set up by the political party. Another candidate had also filed nomination as BJP candidate supported by A and B Forms for the same constituency. So also another candidate has filed dummy candidature as substitute candidate of BJP political party. When the nomination papers came up for scrutiny before the Returning Officer, suo moto objection was raised by the Returning Officer that the political party BJP had set up more than one candidate in the election and therefore, none could be treated as candidate set up by the recognised political party and, thus, rejected the nomination papers of all the three candidates. One of the candidate had applied to the Returning Officer to give him time of 24 hours to produce official confirmation of his candidature from the political party. However, the said request was also rejected by Returning Officer. The same was challenged before the High Court by filing writ petition. However, the Writ Petition was dismissed by the High Court on the ground that the alternate remedy is available to the petitioner to file an election petition and he can avail the same. After declaration of election results, election petition was filed by the respondent therein challenging the election of the returned

candidate on the ground of wrongful rejection of his nomination papers and the same was allowed by the High Court.

25. The said order of High Court was challenged before the Hon'ble Supreme Court. Considering the proviso of section 36(5) of Representation of People Act, the Hon'ble Supreme Court has held that Returning Officer should have allowed time to rebut the objection raised. It is observed that in case an objection is raised during the scrutiny to the validity of a nomination paper of a candidate, the Returning Officer has to give an opportunity to the candidate concerned to rebut the objection by giving him time 'not later than the next day'. In view of the proviso to section 36(5) of the Representation of People Act after scrutiny of the nomination paper, Returning Officer is not expected to reject the candidature without giving an opportunity to the candidate who is capable to met with objection.

26. Rule 13 of the Election Symbol Order was also noted by the Hon'ble Supreme Court, that a candidate shall be deemed to be set up by a political party if and only if a candidate has made a declaration to that effect in his nomination paper, a notice in writing to that effect has not later than 3.00 p.m. on the last date for making nominations been delivered to the Returning Officer of

the constituency and the Chief Electoral Officer of the State and the said notice is signed by the President, the Secretary or any other office bearer of the party and the President, Secretary or such other office-bearer is authorised by the party to send such notice. Thus, the Supreme Court had also noted that, where the candidate is set up by a political party nomination paper must include a declaration by the candidate to the effect that he has been set up by a recognised political party, be supported by a notice (Forms A and B) duly signed by the office bearers of the party. Although, form A and B was required to be filed with the nomination form, the Hon'ble Supreme Court has held that opportunity ought to have been given to the candidates to rectify the defect at the stage of scrutiny. The Hon'ble Supreme Court upheld the Judgment of the High Court setting aside the election of the returned candidate on account of wrongful rejection of nomination papers of the respondent therein.

27. Proviso to Rule 13 of the Election Rules is identical to proviso of section 36 Rule 5 of the Representation of People's Act. The Returning Officer has to allow the time of not later than the next day to rebut the objection raised by the Returning Officer. Although, the petitioner had filed nomination for ward No. 6, Seat 6-B, and his supporting Annexure-2 was of 6-A and vice-versa in

connected writ petition, opportunity ought to have been given to the petitioners to clarify / rectify the error, in view of the judgment of Rakesh Kumar cited supra given in identical facts situation. On the matters being remanded by the appellate court the petitioners had provided the Returning Officer with rectified Annexure-2 from the same political party. The same is not taken on record. However, the same ought to have been taken on record and accepted. However, the Returning Officer has rightly accepted the nomination forms of the petitioners as being contesting from the Ward No.6, Seat 6-B and Ward No.6, Seat 6-A in the case of connected Writ Petition No.14354 of 2025. The appellate court erred in setting aside the order of the Returning Officer accepting nomination of the petitioners for Ward No.6, Seat 6-B and 6-A.

28. The list of validly nominated candidates is yet to be published on account of postponement of elections of Ward No.6 (Seat A & B) along with other similarly placed cases. Interference at this stage would subserve the election process and not interfere with the same. The impugned orders passed by the appellate court are patently illegal.

29. As such, it is hereby directed that the impugned orders of the appellate court are set aside and the acceptance of

nomination by the Returning Officer for each of the candidates / petitioners in the writ petitions is maintained. The rectified form (Annexure-2) given by the political party be taken on record by the Returning Officer and the list shall be published of the nominated candidates by including the names of the petitioners in both the petitions.

30. Rule is made absolute in above terms. The Writ Petitions stand disposed of accordingly.

[ARUN R. PEDNEKER, J.]

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