IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.17305 OF 2025

BASAVRAJ GURAPPA PATIL
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Date: 2025.12.23 11:36:31 +0530

Ujwala w/o. Mahadev Thite .. Petitioner

Vs.

The Election Commission of State of Maharashtra & Ors. .. Respondents

...

Mr. Rishikesh Barge i/b. Mr. S. M. Wale, Advocates for the Petitioner

Mr. Suraj Chakor a/w. Mr. Akshay Pansare, Advocates for Respondent No.1

Mr. Sarang S. Aradhye a/w. Ms. Gauri Velankar, Advocate for Respondent No.5

CORAM : SHREE CHANDRASHEKHAR, CJ &
GAUTAM A. ANKHAD, J.

DATE : 19th DECEMBER 2025

P.C. :

By filing this writ petition, the petitioner is seeking the following reliefs:-

"A) Writ Petition may kindly be allowed.

B) The impugned order dated 26.11.2025 passed in the election petition No. 4/2025 passed by the Ld. District Judge-3, Solapur along with the impugned order dated 18.11.2025 passed by the election returning officer be quashed and set aside and Nomination Form submitted by present Appellant for the Post of President of Nagar Panchayat Angar may kindly be accepted in the interest of justice.

C) Pending hearing and final disposal of the Writ Petition impugned order dated 26.11.2025 passed in the election petition No. 4/2025 passed by the Ld. District Judge-3, Solapur along with the impugned order dated 18.11.2025 passed by the election returning officer be kept in abeyance and petitioners nomination be accepted for election making it subject the outcome of this Writ Petition.

D) Any other relief deemed fit may kindly be granted in the interest of justice."

2. Mr. Rishikesh Barge, the learned counsel for the petitioner submits that the allegation of fraud and the objections raised by the petitioner as stated in paragraph no.5 of the writ petition were not dealt with by the learned District Judge vide Election Appeal No.4 of 2025. Paragraph no.5 of the writ petition reads as under:-

> *"5. The Respondent No.2 without giving an opportunity of hearing to present Petitioner, heard the Objection of the Respondent No.4 and observed in impugned order dated 18.11.2025 that, in spite of intimation to the Petitioner, the Petitioner failed to fulfill the Error regarding the absence of Signature in the Nomination Form, Serial Number in the Voter List in regard to present Petitioner was incorrectly mentioned, however said defect is of Technical Nature, the Ward number has been mentioned as Ward No.5 instead of Ward No.4 and it was observed that said defect is of Technical Nature, further the Serial Number of Proposer has been incorrectly mentioned as 286 and Proof of Age of Candidate has not been filed. Accordingly, the Respondent No.2 refused the Nomination Form of present Petitioner on the ground that, the Signature of Proposer has not been made over the Nomination Form and the Proof of Age of Petitioner was not affixed along with the Nomination Form and Objection raised by the Respondent No.5 was Allowed and the Nomination Form of present Petitioner was declared as Invalid. Copy of the order dated 18/11/2025 of the returning officer is annexed at* ***Exhibit-"D".***

3. The decision rendered by the learned District Judge *prima facie* seems to be correct. Moreover, a challenge to the decision rendered in Election Appeal No.4 of 2025 shall not lie by way of a writ petition, more particularly, when the election process has commenced. Any interference with the judgment dated 26th November 2025 is likely to impede the process of election and that is another reason no interference by the Court is permissible.

4. In "*Mohinder Singh Gill v. Chief Election Commissioner*" (1978) 1 SCC 405, the Hon'ble Supreme Court observed as under:-

> *"26. The heart of the matter is contained in the conclusions summarised by the Court thus:*
>
> > *"(1) Having regard to the important functions which the legislatures have to perform in democratic countries, it has always been recognised to be a matter of first importance that elections should be concluded as early as possible according to time schedule and all controversial matters and all disputes arising out of elections should be postponed till after the elections are over, so*

> *that the election proceedings may not be unduly retarded or protracted.*
>
> *(2) In conformity with this principle, the scheme of the election law in this country as well as in England is that no significance should be attached to anything which does not affect the 'election'; and, if any irregularities are committed while it is in progress and they belong to the category or class which, under the law by which elections are governed, would have the effect of vitiating the 'election' and enable the person affected to call it in question, they should be brought up before a special tribunal by means of an election petition and not be made the subject of a dispute before any court while the election is in progress."*

After elaborately setting out the history in England and in India of election legislation vis-a-vis dispute-resolution, Fazl Ali, J. stated:

> *"If the language used in Article 329(b) is considered against this historical background, it should not be difficult to see why the framers of the Constitution framed that provision in its present form and chose the language which had been consistently used in certain earlier legislative provisions and which had stood the test of time."*

Likewise the Court discussed the connotation of the expression "election" in Article 329 and observed:

> *"That word has by long usage in connection with the process of selection or proper representatives in domestic institutions, acquired both a wide and a narrow meaning. In the narrow sense, it is used to mean the final selection of a candidate which may embrace the result of the poll when there is polling or a particular candidate being returned unopposed when there is no poll. In the wide sense, the word is used to connote the entire process culminating in a candidate being declared elected .... it seems to me that the word 'election' has been used in Part XV of the Constitution in the wide sense, that is to say, to connote the entire procedure to be gone through to return a candidate to the legislature ..... That the word "election" bears this wide meaning whenever we talk of elections in a democratic country, is borne out by the fact that in most of the books on the subject and in several cases dealing with the matter, one of the questions mooted is, when the election begins?"*

The rainbow of operations, covered by the compendious expression "election", thus commences from the initial notification and culminates in the declaration of the return of a candidate. The paramount policy of the Constitution-framers in declaring that no election shall be called in question except the way it is provided for in Article 329(b) and the Representation of the People Act, 1951, compels us to read, as Fazl Ali, J. did in Ponnuswami the Constitution and the Act together as an integral

scheme. The reason for postponement of election litigation to the post-election stage is that elections shall not unduly be protracted or obstructed. The speed and promptitude in getting due representation for the electors in the legislative bodies is the real reason suggested in the course of judgment."

5. Writ Petition No.17305 of 2025 is dismissed.

[GAUTAM A. ANKHAD, J.] **[CHIEF JUSTICE]**