

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5527 OF 2024

Namra Aurangzed Ansari & Ors.Petitioners

Versus

The State Of Maharashtra & Ors.Respondents

Mr. Nitin Gangal a/w. *Vinod Utekar, Prapti Karkera & Pranil K. Sonawane i/b. KLS Legal, for Petitioners.*

Mr. Rajesh Tekale, *for Respondent No.3.*

Mr. Atharva A. Dandekar a/w. *Gautam J. Jain i/b. Sumit S. Kothari, for Respondent No.4.*

Ms. Pooja Patil, *AGP for State.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : DECEMBER 22, 2025

ORDER :

1. Rule. Made returnable forthwith by consent of the parties and heard finally.
2. A compilation containing, among others, the record of proceedings held on December 5, 2019 (Page No.370) on the floor of the house of the local authority is taken on record.
3. This Petition raises various questions about whether the Impugned Judgment and Order dated June 26, 2023 overturning an

Order of the Learned Divisional Commissioner dated December 31, 2021 is sustainable having regard to the factual matrix involved in the case.

4. There are various competing versions that have been dealt with in both the orders arising out of the proceedings so far. However, purely for purposes of examining whether urgent interlocutory measures need to be issued, suffice it to say that the political party to which the 18 Petitioners belonged and on whose tickets they had been elected, had issued a whip on December 1, 2019, asking them to vote in favour of one Ms. Rishika Raka in the Mayoral Elections that were to follow. This whip appears to have been in writing and is said to have been reported in the newspapers.

5. It also appears that two days later on December 3, 2019, another whip was reported as having been issued in favour of one Ms. Pratibha Patil directing all members of the Indian National Congress to vote in favour of Ms. Pratibha Patil. Both these whips appear to have been widely reported in local newspapers having circulation in the area.

6. Thereafter, the Mayoral Elections were held on December 5, 2019. On the face of the record, going by the minutes of the proceedings held on the floor of the house, it is apparent that the very same member designated as a party whip of Indian National Congress, had at the threshold, made a statement that reports of a fake whip is

doing the rounds purporting to have been issued for voting in favour of Ms. Patil who was in fact a member of an opposing party. The party whip clarified on the floor of the house before polling took place, that the party whip was to vote in favour of Ms. Raka.

7. Yet, the 18 Petitioners have voted in favour of Ms. Patil, on the premise that they were placing reliance on written reports of the whip dated December 3, 2019. They claim to have believed in the written whip rather than the in-person-on-the-record assertion made on the floor of the House before voting started as to who the party members were meant to vote for.

8. Section 3(1)(b) of the Maharashtra Local Authority Members Disqualification Act, 1986 explicitly provides that a member belonging to a political party or a front comprising multiple parties shall be disqualified from being a member if he votes or abstains from voting in “*any meeting*” of the local body, contrary to any direction issued by the political party to which he belongs, or by any personal authority, authorized by any of them in this behalf. There is no dispute that Mr. Ansari was a designated party whip and he had made the statement on the floor of the house at the meeting, before the commencement of polling.

9. It is in these circumstances, that in my view, a strong *prima facie* case for urgent intervention in favour of the Petitioners is not made out.

10. There seems to have been multiple rounds of negotiations, and the members appear to have been ferreted to a resort in Silvassa during this period. These present various issues of facts that may need to be gone into. In the first instance, the Divisional Commissioner held in favour of the Petitioners while the Chief Minister, the appellate authority has held against the Petitioners. For purposes of considering *ad interim* relief today, I have gone by the record, and without the need to examine how the issue was examined in the respective rounds of quasi-judicial assessment made so far.

11. Purely from an interlocutory point of view, since the record of proceedings on the floor of the house indicates that the 18 Petitioners were left in no manner of doubt as to who the party whip was in favour of, their voting in favour of any candidate who was not covered by those instructions, would not lead to any urgent *ad interim* intervention in favour of the Petitioners being appropriate. On the contrary, it would be wholly inappropriate to grant interim relief at this belated stage – belated because the Petitioners have chosen to move the Petition only when the local body elections have been declared afresh. Getting relief at this stage would render the strong *prima facie* case against them

irrelevant and they can move on for another five years with no consequence for such a strong prima face case against them.

12. I make it clear that these observations have been made purely on a *prima facie* basis and purely from the perspective of examining whether urgent interim reliefs need to be granted in a Petition that is already more than two years old. It is in these circumstances, that no urgent intervention is being made. The Petition would be heard in detail subsequently. Stand over to ***January 30, 2026***.

13. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[**SOMASEKHAR SUNDARESAN, J.**]