

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.15215 OF 2025**

Sandeep Maruti Raskar ... Petitioner
versus
District Magistrate cum District Election
Officer and Ors. ... Respondents

Mr. Vineet Naik, Sr. Advocate i/by Mr. Nikhil Adkine, Mr. Mahadji Phalke, Mr. Avinash Bailmare, Mr. Shubham B. Chaudhari, Mr. Somnath Kale, Mr. Sukand Kulkarni, for Petitioner.

Mrs. Neha Bhide, Govt. Pleader with Mrs. Vrishali Raje, AGP for State.

Mr. S.B.Shetye, for Respondent No.3.

Mr. Akshay Shinde, for Respondent No.5.

CORAM: N.J.JAMADAR, J.

DATE : 12 NOVEMBER 2025

JUDGMENT:

1. Rule. In view of the urgency, rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.

2. By this Petition under Article 227 of the Constitution of India, the Petitioner assails the legality, propriety and correctness of an order dated 6 November 2025 passed by the District Collector / District Election Officer, Pune, in Appeal No.1 of 2025, whereby the appeal preferred by the Petitioner purportedly under Section 24 of the Representation of the People Act, 1950 read with Rule 23 of the Registration of Electors Rules, 1960, came to be dismissed.

3. The Petitioner claims to be a resident and former Councilor of the

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Alandi Municipal Council. As the name of the Petitioner was included in the electoral rolls of Alandi Municipal Council, Bhosari Legislative Assembly Constituency and Khed Municipal Council, the Petitioner filed an application in Form No.7 of the Registration of Electors Rules, 1960, seeking deletion of the name of the Petitioner in the electoral rolls of Bhosari Legislative Assembly Constituency and Khed Municipal Council, on 22 November 2021 and sought retention of his name in the electoral roll for Alandi Municipal Council.

4. It is the grievance of the Petitioner that on 30 December 2023, the Booth Level Officer made an application for deletion of the name of the Petitioner from the electoral roll of Alandi Municipal Council and without notice to the Petitioner, the name of the Petitioner came to be deleted. On 30 September 2025, the State Election Commission declared programme for the general elections to the Municipal Council and Nagar Panchayats. The voter's list for Alandi Municipal Council was published on 8 October 2025. Thereupon, the Petitioner found that the name of the Petitioner was deleted from the electoral roll for Alandi Municipal Council.

5. On 10 October 2025, the Petitioner submitted an application to the Election Officer (R2) for inclusion of the name of the Petitioner in the electoral roll. By a communication dated 13 October 2025, the said application was disposed observing that, in accordance with the directions of the State Election Commission (R3), the draft voters list in accordance with the

electoral rolls of the Maharashtra Legislative Assembly as of 1 July 2025, was published, and, therefore, it was not possible to include the name of the Petitioner in the draft voters list, as the name of the Petitioner did not appear in the electoral roll for the concerned Maharashtra Legislative Assembly constituency.

6. Being aggrieved, the Petitioner had initially preferred Writ Petition No.14116 of 2024, before this Court. The said Writ Petition was withdrawn with liberty to avail the appellate remedy. Availing the said liberty, the Petitioner preferred an appeal before the District Election Officer.

7. By the impugned order, the District Election Officer (R1) dismissed the appeal observing, inter alia, that in the wake of the Parliamentary and Legislative Assembly General Elections, the draft electoral rolls were published and finalized in the year 2024 and the deletion of the name of the Petitioner was not assailed by the Petitioner by filing an appeal within the stipulated period.

8. Mr. Vineet Naik, learned Senior Advocate for the Petitioner, submitted that the deletion of the name of the Petitioner from the electoral roll of Alandi Municipal Council was in clear violation of the Registration of Electors Rules, 1960 and the fundamental principle of natural justice. No notice was served on the Petitioner before deletion of his name at the instance of Booth Level Officer, on 6 January 2023. Indisputably, the Petitioner is a resident of Alandi

and has been a former Councilor of Alandi Municipal Council. The Petitioner had filed an application for deletion of his name in Form No.7 from the electoral rolls of Bhosari Legislative Assembly Constituency and Khed Municipal Council. On the own showing of the Respondents, no action was taken on the said application. Yet, by the impugned actions the Petitioner's statutory and constitutional rights have been infringed, urged Mr. Naik.

9. Mr. Shetye, learned Counsel for Respondent No.3, would submit that, the electoral roll of the Legislative Assembly Constituency is the basis for the voters list for the election to Municipal Councils. Attention of the Court was invited to the provisions contained in Section 11 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, which mandates that, the electoral roll of the Maharashtra Legislative Assembly prepared under the provisions of the Representation of the People Act, 1950, for the time being in force, on such date as the State Election Commissioner may, by general or special order notify, shall be divided by the State Election Commissioner into different sections corresponding to different wards in the municipal area; and a printed copy of each section of the roll so divided and authenticated by the State Election Commissioner or an officer authorized by him, shall be the list of voters for each ward. Therefore, the essential challenge of the Petitioner is to the deletion of the name of the Petitioner from the electoral roll of the Maharashtra Legislative Assembly. As the Petitioner

did not assail the said order of deletion by preferring an appeal, as provided under Section 24 of the Representation of the People Act, 1950, read with Rule 23 of the Registration of Electors Rules, 1960, the challenge to the voters list, at this stage, is wholly misconceived.

10. To buttress this submission, Mr. Shetye placed reliance on Division Bench judgments of this Court in the cases of **Firoz Khan Daddu Khan Pathan V/s. State Election Commission and Ors.**¹ and **Shri Savio O. Fernandes and Anr. V/s. State Election Commissioner and Ors.**²

11. Mr. Shinde, learned Counsel for the Election Commission of India (R6), assailed the very maintainability of the Petition on the ground that under Section 24(b) of the Representation of the People Act, 1950, the Petitioner has an efficacious statutory remedy of Appeal before the Chief Electoral Officer. Thus, the Petitioner must be directed to exhaust the statutory remedy of appeal before the Chief Electoral Officer.

12. Mr. Shinde supplemented the submissions of Mr. Shetye that, once the electoral roll of the Legislative Assembly of a particular date is notified as the voters list and the name of the Petitioner does not find mention in such voters list, the petitioner loses the qualification of a voter at the election of a Councillor for the ward to which such voters list pertains. To this end, Mr. Shinde placed reliance on a Division Bench judgment in the case of

1 WP No.3606 of 2020 dt. 22 December 2020 (Nagpur)

2 AIR 1996 Bom 343

Balkrishna Jayasing Barge V/s. State Commission, through the State Election Commissioner and Ors.³.

13. Mrs. Raje, learned AGP for Respondent No.4, also supported the submissions on behalf of the State Election Commission and Election Commission of India. It was urged that, the name of the Petitioner was deleted from the electoral roll of Alandi Municipal Council in strict adherence to the procedure for addition and deletion of names from the electoral roll. Since the name of the Petitioner does not find mention in the final electoral roll of Maharashtra Legislative Assembly for the concerned ward of the Alandi Municipal Council, the Petition does not deserve to be entertained.

14. Mr. Naik joined the issue on the maintainability of the Petition by submitting that, the existence of an alternate remedy does not preclude the Writ Court from exercising jurisdiction in the exigency of the situation like the present one. Availability of an alternate remedy is a self-imposed restraint on the exercise of writ jurisdiction. In the case at hand, in the light of the fact that the last date for filing the nomination form is 17 November 2025, and, in view of the stand of the State Election Commission, the remedy of Appeal before the Chief Electoral Officer would not be an efficacious remedy, urged Mr. Naik.

15. I have given careful consideration to the submissions canvassed across

3 2016 SCC Online Bom 13260

the bar. Part III of the Representation of the People Act, 1950 contains a fasciculus of the provisions under the caption “Electoral Rolls for Assembly Constituencies”. Section 22 of the Act, 1950 provides for corrections of entries in electoral rolls. It reads as under :

“22. Correction of entries in electoral rolls. - If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency -

- (a) is erroneous or defective in any particular,
- (b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or
- (c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll,

the electoral registration officer shall, subject to such general or special direction, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry after proper verification of facts in such manner as may be prescribed :

Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that constituency, the electoral registration officer shall give the

person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him after proper verification of facts in such manner as may be prescribed.”

16. Section 23 provides for inclusion of names in the electoral rolls. Section 24 provides for appeals. It reads as under :

“24. Appeals. - An appeal shall lie within such time and in such manner as may be prescribed -

(a) to the district magistrate or additional district magistrate or executive magistrate or district collector or an officer of equivalent rank, from any order of the electoral registration officer under Section 22 or Section 23;

(b) to the chief electoral officer, from any order of the district magistrate or the additional district magistrate under clause (a)”

17. The Registration of Electors Rules, 1960, contains rules for inquiry into claims and objections in regard to the electoral roll for the Assembly Constituencies; inclusion of the names inadvertently omitted (Rule 21), deletion of names (Rule 21-A) and final publication of electoral roll (Rule 22). Under Rule 23, appeal is provided from the orders deciding claims and objections under Rules 20, 21, 21-A to an appellate officer designated by the State Government. Such appeal is required to be presented to the appellate officer within a period of 15 days from the date of announcement of the decision.

18. At this juncture, it is necessary to notice the provisions contained in

Sections 11 and 12 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965. They read as under :

“11. Preparation of list of voters. - The electoral roll of the Maharashtra Legislative Assembly prepared under the provisions of the Representation of the People Act, 1950, for the time being in force, on such date as the State Election Commissioner may, by general or special order notify, shall be divided by the State Election Commissioner into different sections corresponding to different wards in the municipal area; and a printed copy of each section of the roll so divided and authenticated by the State Election Commissioner or an officer authorized by him, shall be the list of voters for each ward.

12. Right to Vote.- (1) Every person whose name is in the list of voters maintained under Section 11 shall be qualified to vote, and every person whose name is not in such list shall not be qualified to vote, at the election of a Councilor for the ward to which such list pertains.

(2) The list of voters maintained under Section 11 shall be conclusive evidence for the purpose of determining under this section whether a person is qualified or is not qualified to vote, as the case may be, at any election.”

19. In the light of the aforesaid statutory provisions, reverting to the facts of the case, it becomes abundantly clear that, the exercise of the deletion of the name of the Petitioner from the electoral roll of Alandi Municipal Council was in pursuance of the power under Section 22 of the Representation of the People Act, 1950 and Rule 21-A of the Registration of Electors Rules, 1960.

Incontrovertibly, the name of the Petitioner was included in three electoral rolls, namely Alandi Municipal Council, Bhosari Legislative Assembly Constituency and Khed Municipal Council. In fact, the Petitioner made an endeavour to press into service the application presented by the Petitioner for deletion of his name from the electoral rolls of Bhosari Legislative Assembly Constituency and Khed Municipal Council as his trump card. Mr. Naik would urge, with a degree of vehemence, that no decision was taken on the said application and against the wish of the Petitioner, his name came to be deleted from the electoral rolls of Alandi Municipal Council.

20. At the first blush, the submission of Mr. Naik appears attractive. However, on a close scrutiny, the challenge does not merit acceptance.

21. A conjoint reading of the provisions contained in the Representation of the People Act, 1950 and Sections 11 and 12 Act, 1965, would indicate that it is the final electoral roll for the Maharashtra Legislative Assembly Constituencies, as of the date notified by the State Election Commission, that commands the primacy and assumes determinative significance. It is the electoral roll of the Maharashtra Legislative Assembly Constituency in which the Municipal Council falls, that has to be divided into different sections, corresponding to different wards in the municipal area. Addition and deletion of names, thus, has to be in and from the final electoral roll for the concerned legislative assembly constituency as of the notified date. The names of the

electors cannot be included or deleted from the voters list of the particular ward in a Municipal Council.

22. Evidently, an elaborate procedure is delineated in the Representation of the People Act, 1950 and the Registration of Electors Rules, 1960, for the addition to and deletion of the names from the electoral roll for the legislative assembly constituency, with a provision of appeals. Consequently, the grievance regarding the improper addition to, or deletion of names from, the electoral rolls has to be pursued in the manner provided under the Act, 1950 and the Electors Rules, 1960. Any challenge to the deletion of the names from the electoral rolls after the specified date cannot be countenanced in the manner other than that provided under the Act, 1950 and the Electors Rules, 1960.

23. In the case of **Firoz Khan Daddu Khan Pathan (supra)**, in the context of the election to the village panchayat under Maharashtra Village Panchayat Act, the provisions contained in Section 12 whereof, are pari materia with Section 11 of the Act, 1965, the Division Bench of this Court repelled the challenge to the deletion of the name from the voters list for the Village Panchayat, as under :

“6. It would be clear from the above referred section that for the purposes of gram panchayat elections, it is only that electoral roll of the Maharashtra Legislative Assembly, which has been notified and published for the purposes of gram panchayat elections on a particular date by the State

Elections Commissioner, which is valid. In the present case, the electoral roll that was notified for the purposes of gram panchayat election by State Election Commissioner, was the electoral roll as it existed on 25.09.2020. In this roll, name of the petitioner was shown as deleted. In other words, the position that obtained on 25.09.2020 in the electoral roll for the Maharashtra State Assembly was that name of the petitioner was not included. That would mean that for the purposes of the gram panchayat election, the name of the petitioner could not be included in the voters list after 25.09.2020 and even if it is to be included in terms of the provisions contained in Section 23 of the Representation of the People Act, 1950 read with Rule 13 of the Registration of Electors Rules, 1960, it would not be considered as valid for the purposes of the present gram panchayat elections”

24. The Division Bench followed an earlier Division Bench judgment in the case of **Shri Savio O. Fernandes and Anr Vs State Election Commissioner and Ors.**⁴ The reference to the enunciation of law in the judgment in the case of **Savio O. Fernandes and Anr. (supra)**, would be apposite. The observations in paragraph Nos.35 to 37 are material, and, hence, extracted below :

“35. Thus, sub-section (2) of Section 12 of the Act makes the voters list maintained under Section 11 of the Act to be the conclusive evidence for the purpose of determining whether a person is qualified or is not qualified to vote. As indicated hereinabove, some other provisions of Section 11 of the Act

4 AIR 1996 Bombay 343.

are similar to those to be found in Section 14 of the Karnataka Municipalities Act. In our opinion, therefore, the judgment in AIR 1975 SC 1708 should govern our decision. That judgment in terms lays down that if there is any mistake in the electoral roll, in that some voters residing in one area or house number are shown as residing in another, it cannot be corrected while preparing the list of voters for each division. The Returning Officer has to take the electoral roll for the territorial area of the division as it is with whatever mistakes there may be in it, and that would be the list of voters for the division. The only way in which the mistakes, if any, either in the names of the voters or in their addresses including house numbers in which they reside, can be corrected is by applying for rectification under the provisions of Section 22 of the Representation of People Act, 1950. So long as such rectification is not made, the entries in the electoral roll would stand and they would necessarily be reflected in the list of voters for the division. But they would not constitute the mistakes so far as the preparation of the list of voters for the division is concerned.

36. Thus, applying the aforesaid principle to the facts of our case, it has got to be said that the only remedy for the present petitioners was to approach the concerned authority under the 1950 Act when the intensive revision of the electoral roll was undertaken, as pointed out in the affidavit-in-reply and documents annexed thereto.

37. The contention that as Section 11 of the Act does not contain any corrective machinery, that provision is ultra vires, cannot be accepted. The reason is that it would not be incumbent upon any legislature to provide such machinery twice over again. Under the provisions of the 1950 Act, such

machinery has been provided in Sections 22 and 23 of the Act. After following that machinery, an electoral roll was finalised, and such finalised electoral roll formed the basis of voters list prepared by the authorities who are in charge of the conduct of the Municipal elections. The fact that Section 11 of the Act does not provide for a machinery for correcting the voters list will not render that section ultra vires. What Section 11 contemplates is that the electoral roll for the legislative Assembly for the time being in force on such date as the State Election Commissioner may by general or special order notify in that behalf shall form the basis for preparing a document which is to be deemed to be Municipal voters list. For converting the legislative Assembly electoral Roll into a voters list for the Municipal election, the only operation to be performed is "scissors and paste". Now as is clear from the facts and provisions of law, before the legislative Assembly Roll is finalised, it has to pass through a corrective procedure. In the present case as the affidavit-in-reply shows such corrective procedure has been followed. Draft roll was prepared, objections and claims were invited, and thereafter, the draft roll was finalised by notification dated 1st December, 1995. The State Election Commissioner, by his order dated December 20, 1995, has taken that final Assembly Roll as the basis for preparing the voters list for conducting the elections to the Municipal Council. Therefore, neither Section 11 of the Act nor the voters list, on the basis of which the elections are going to be held could be faulted."

25. The Division Bench has in terms observed that, before the Legislative Assembly Roll is finalized, it has to pass through corrective procedure. Draft

roll is prepared, objections and claims are invited and, thereafter, draft roll is finalized. Such finalised electoral roll forms the basis of voter's list prepared for the conduct of Municipal elections. For converting the legislative assembly electoral roll into a voters list for the municipal election, the only operation to be performed is "scissors and paste"

26. In the case at hand, it is imperative to note that, the name of the Petitioner was deleted from the electoral roll of the legislative assembly constituency into which Alandi Municipal Council falls, on 6 January 2023. The Parliamentary and Maharashtra State Legislative Assembly elections were held subsequent to the deletion of the name of the Petitioner from the said electoral roll.

27. Mr. Naik fairly submitted that, the Petitioner's name was not included in the electoral roll for the Maharashtra Legislative Assembly Constituency into which Alandi Municipal Council falls.

28. Once this position is conceded, it becomes explicitly clear that the challenge now sought to be mounted by the Petitioner cannot be countenanced as the Petitioner cannot be heard to urge that, he was unaware of the deletion of his name from the electoral roll of the concerned legislative assembly constituency. At any rate, the essential challenge is to the deletion of the Petitioner's name from the electoral roll for the concerned legislative assembly constituency. Therefore, the authorities were justified in not

acceding to the prayer of the Petitioner to include his name in the voters list of Alandi Municipal Council. Resultantly, the Writ Petition fails.

29. At this stage, Mr. Naik submitted that liberty to avail the remedy to assail the deletion of the name of the Petitioner from the electoral roll of the concerned legislative assembly constituency be reserved.

30. Suffice to note, if the remedy is statutorily available, the Petitioner cannot be precluded from availing the said remedy.

31. Hence, the following order :

ORDER

(i) The Writ Petition stands dismissed.

(ii) It is, however, clarified that, the Petitioner would be at liberty to avail the remedy against the deletion of his name from the electoral roll of the concerned legislative assembly constituency, as available in law, and the dismissal of this Petition may not be construed as an impediment in pursuing such remedy, if available in law.

(iii) Rule discharged.

(iv) No costs.

(N.J.JAMADAR, J.)