

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.15723 OF 2025

Prasad Anil Sonawane,]
R/o. Sambhaji Chowk, Chandwad,]
Tal. Chandwad, Dist. Nashik] .. Petitioner

Versus

1. State of Maharashtra,]
Through the Government Pleader,]
High Court, Bombay]
2. The Secretary,]
State Election Commission, Maharashtra]
3. The Commissioner,]
State Election Commission, Maharashtra]
4. The Deputy Commissioner,]
State Election Commission, Maharashtra]
5. The Returning Officer/Tehsildar,]
Chandwad, Dist. Nashik] .. Respondents

Mr. Ranji G. Jadhav, Advocate for the Petitioners.

Mrs. Neha S. Bhide, Government Pleader with Mr. O.A. Chandurkar, Additional Government Pleader and Mrs. Pooja Patil, Assistant Government Pleader for Respondent Nos.1 and 5.

Mr. Sachindra Shetye with Mr. Nipun Sawane, Ms. Dhanashri Mondkar and Ms. Vrushali Shivgan, Advocates for the Respondent-State Election Commission.

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

DATE : 25TH NOVEMBER 2025.

PER, GAUTAM A. ANKHAD, J.

The petitioner has filed this writ petition assailing the rejection of his nomination form by the returning officer-respondent no.5 in the forthcoming Nagar Panchayat elections and seeks the following reliefs:

“A. *This Civil Writ Petition may kindly be allowed.*

B. *By issuing a writ of mandamus or any other writ of like nature, it may kindly be held and declared that the letter dated 18.11.2025 issued by the Deputy Commissioner, State*

Election Commission cannot be made applicable to the nomination forms that are filled before hand i.e. prior to 17.11.2025 and specifically to nomination form dated 16.11.2025 filed and submitted by the petitioner before respondent no.5.

- C. This Hon'ble Court may kindly be pleased to quash the order dated 18.11.2025 passed by the respondent no.5/Returning Officer whereby the petitioner is declared as disqualified to contest the Chandwad Nagarparishad Election 2025 solely for the reason of lack of five supporting proposers since the same is passed in consequence to letter dated 18.11.2025 which is arbitrary, unjust and bad in law.*
- D. That during the pendency of this present writ petition, retrospective effect and application of letter dated 18.11.2025 issued by the Deputy Commissioner, State Election Commission, Maharashtra may kindly be stayed."*

2. The petitioner filed the A-B Form as an optional candidate in the nomination form of Mr. Vilas Madhukar Pawar. The nomination was submitted on 16th November 2025 and at that time, in accordance with the prevailing rules, both Mr. Pawar and the petitioner were supported by the signature of one proposer. The learned counsel for the petitioner states that on 18th November 2025, the main candidate, namely, Mr. Pawar decided to withdraw his nomination for personal reasons. Following this withdrawal, the petitioner approached respondent no.5 seeking consideration of his own nomination. Mr. Jadhav contends that the petitioner's nomination has been wrongly rejected, resulting in his disqualification from contesting the elections solely on the ground that his nomination lacked the signatures of five proposers. He submits that this rejection is arbitrary and that respondent no.4 could not have issued the letter dated 18th November 2025 once the nomination forms had already been submitted before the returning officer. He further submits that the rules cannot be altered or applied retrospectively to the petitioner's detriment, and therefore, the petition deserves to be allowed. He relied upon the judgment of this Court in "*Suleman*

Fakruddin Ansari v. S.B. Kulkarni & Anr.”, 1963 Mh.L.J. 351 in support of submissions.

3. We have heard the learned counsels for the parties and find no merit in this petition. Mr. Sachindra Shetye, the learned counsel for the State Election Commission submits that the petitioner availed of the statutory remedy and that order is not under challenge. It is settled law that a right to contest an election is neither a fundamental right nor a common law right. In “*Vishwanath Pratap Singh vs. Election Commission of India*”, 2022 SCC Online SC 2213, the Hon’ble Supreme Court has held as follows:

5. We find that the writ petition before the High Court was entirely misconceived and so is the present special leave petition. The right to contest an election is neither a fundamental right nor a common law right. It is a right conferred by a statute. In Javed v. State of Haryana, (2003) 8 SCC 369, this Court held that:—

“22. Right to contest an election is neither a fundamental right nor a common law right. It is a right conferred by a statute. At the most, in view of Part IX having been added in the Constitution, a right to contest election for an office in Panchayat may be said to be a constitutional right — a right originating in the Constitution and given shape by a statute. But even so, it cannot be equated with a fundamental right. There is nothing wrong in the same statute which confers the right to contest an election also to provide for the necessary qualifications without which a person cannot offer his candidature for an elective office and also to provide for disqualifications which would disable a person from contesting for, or holding, an elective statutory office.

4. In “*Jyoti Basu v. Debi Ghosal*”, (1982) 1 SCC 691, the Hon’ble Supreme Court held as follows:

8. A right to elect, fundamental though it is to democracy, is, anomalously enough, neither a fundamental right nor a common law right. It is pure and simple, a statutory right. So is the right to be elected. So is the right to dispute an election. Outside of statute, there is no right to elect, no right to be elected and no right to dispute an election. Statutory creations they are, and therefore, subject to statutory limitation. An election petition is not an action at common law, nor in equity. It is a statutory proceeding to which neither the common law nor the principles of equity apply but only those rules which the statute makes and applies. It is a special jurisdiction, and a special jurisdiction has always to be exercised in accordance with the statute creating it. Concepts familiar to common law and equity must remain strangers to election law unless statutorily embodied. A court has no right to resort to them on

considerations of alleged policy because policy in such matters as those, relating to the trial of election disputes, is what the statute lays down. In the trial of election disputes, court is put in a straight-jacket. Thus the entire election process commencing from the issuance of the notification calling upon a constituency to elect a member or members right up to the final resolution of the dispute, if any, concerning the election is regulated by the Representation of the People Act, 1951, different stages of the process being dealt with by different provisions of the Act. There can be no election to Parliament or the State Legislature except as provided by the Representation of the People Act, 1951 and again, no such election may be questioned except in the manner provided by the Representation of the People Act. So the Representation of the People Act has been held to be a complete and self-contained code within which must be found any rights claimed in relation to an election or an election dispute. We are concerned with an election dispute. The question is who are parties to an election dispute and who may be impleaded as parties to an election petition. We have already referred to the scheme of the Act. We have noticed the necessity to rid ourselves of notions based on common law or equity. We see that we must seek an answer to the question within the four corners of the statute. What does the Act say?

5. In “*N.P. Ponnuswami v. Returning Officer, Namakkal Constituency*”, (1952) 1 SCC 94, the Hon’ble Supreme Court held that:

“24. It may be pointed out that Article 329(b) must be read as complementary to clause (a) of that article. Clause (a) bars the jurisdiction of the courts with regard to such law as may be made under Articles 327 and 328 relating to the delimitation of constituencies or the allotment of seats to such constituencies. It was conceded before us that Article 329(b) ousts the jurisdiction of the courts with regard to matters arising between the commencement of the polling and the final selection. The question which has to be asked is what conceivable reason the legislature could have had to leave only matters connected with nominations subject to the jurisdiction of the High Court under Article 226 of the Constitution. If Part XV of the Constitution is a code by itself i.e. it creates rights and provides for their enforcement by a Special Tribunal to the exclusion of all courts including the High Court, there can be no reason for assuming that the Constitution left one small part of the election process to be made the subject-matter of contest before the High Courts and thereby upset the time schedule of the elections. The more reasonable view seems to be that Article 329 covers all “electoral matters”.

25. The conclusions which I have arrived at may be summed up briefly as follows:

(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.”

6. From the law enunciated in the above judgments, it is clear that once the election process has commenced, the writ court will not interfere in the matter. It is always open to the aggrieved party, to challenge the same by filing an election petition and seek appropriate relief in accordance with law. The petitioner’s reliance on the judgment in “*Suleman Ansari*” is misplaced. In that case, the applicant did not sign his nomination papers and yet his application was accepted by the commissioner/returning officer. This acceptance by the commissioner was set aside by the Division Bench of this Court. The judgment has no application to the facts of this case.

7. In the present case, the election programme began on 5th November 2025. On 18th November 2025, the State Election Commission clarified that a dummy/ optional candidate who submits a nomination supported by only one proposer is not eligible, and such nomination is liable to be rejected. It records that the optional candidate (like the petitioner) must submit a nomination form supported by five proposers to qualify. In our view, considering the above law, the election process cannot be interdicted at this stage by exercising our writ jurisdiction. We cannot interfere with this process at the petitioner’s instance, which is otherwise applicable to all other candidates contesting the Nagar Panchayat elections. Further, Mr. Vilas Pawar, who purportedly wants to withdraw from the elections is not a party to this petition. There is no explanation from the petitioner’s counsel for this absence. In his absence, the statement made by the

learned counsel for the petitioner that Mr. Vilas Pawar wants to withdraw his nomination cannot be verified.

8. For the aforesaid reasons, Writ Petition No. 15723 of 2025 stands dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]

BHARAT
DASHARATH
PANDIT

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by BHARAT
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