

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

WRIT PETITION NO. 16592 OF 2025

Nitin @ Nitesh Ashok Gaikwad

.. Petitioner

Versus

State Election Commission Maharashtra
& Ors.

.. Respondents

...

Mr. Suhas B. Rohile, Advocate for the Petitioner.

Mr. Sachindra Shetye, Advocate for Respondent Nos.1 and 2.

Mrs. Neha S. Bhinde, Govt. Pleader with Mr. O. A. Chandurkar, Addl.
Govt. Pleader and Mrs. Pooja Patil, AGP for Respondent No.3.

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

DATE : 8th DECEMBER 2025.

P.C. :

The petitioner is aggrieved by the order dated 26th November 2025 in Election Appeal No.02 of 2025 passed by the District Judge-12, Pune. In Election Appeal No.02 of 2025, the petitioner laid a challenge to the order dated 18th November 2025 passed by the Returning Officer of the Municipal Council, Fursungi-Uruli Devachi, District of Pune by which his nomination paper/form for the post of President in general election-2025 for Municipal Council, Fursungi-Uruli Devachi was rejected.

2. As to the maintainability of a writ petition to challenge the rejection of a nomination form by the Returning Officer, a Full Bench of this Court referred to Article 243 of the Constitution of India in "*Karma Veer Tulshiram Autade v. State Election Commission, Mumbai*"

2021 SCC OnLine Bom 37 and held that filing of a writ petition is not a plea to subserve the progress of election and/or facilitate its completion, as indicated in “*Mohinder Singh Gil & Anr. v. Chief Election Commissioner, New Delhi & Ors.*” (1978) 1 SCC 405. The Full Bench held as under:-

“68. *For the reasons aforesaid, while agreeing with the view in Vinod Pandurang Bharsakade (supra), we answer the fundamental question as formulated in paragraph 27 in the negative. As a sequel thereto, we answer the questions referred by the Division Bench in the manner as follows:*

- (i) *Allowing a challenge in a writ petition to rejection of nomination form to contest an election and granting the relief claimed by setting aside such order of rejection is definitely not a step to subserve the progress of election and/or facilitate its completion in the sense enunciated in Mohinder Singh Gill (supra) and explained in Ashok Kumar (supra) though it may not always amount to intervention, obstruction or protraction of the election;*
- (ii) *Article 243-0(b) of the Constitution of India is a bar for entertaining a writ petition under Article 226 of the Constitution against an order passed by the Returning Officer rejecting nomination paper and such provision would clearly be attracted whenever a writ petition is presented before a Court for its consideration; and*
- (iii) *The law laid down in Vinod Pandurang Bharsakade (supra) represents the correct view of law; consequently, we hold that the decision in. Smt. Mayaraju Ghavghave (supra) and Sudhakar s/o Vitthal Misal (supra) do not lay down the correct law.”*

3. A writ petition challenging the order passed by the District Judge allowing a challenge to the rejection or acceptance of the nomination form shall also not lie. The remedy for the aggrieved person is now to file election petition after the result is declared.

4. Writ Petition No.16592 of 2025 is dismissed as not maintainable.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]