

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

WRIT PETITION NO. 16667 OF 2025

Kamptee Nagar Vikas Kruti Samiti	}	Petitioner
versus		
The State Election Commission & Ors.	}	Respondents

Mr. A. R. Ingole, Advocate for the Petitioner.

Mr. S. B. Shetye, Advocate for State Election Commission.

Ms. Neha S. Bhide, Government Pleader with Mr. O. A. Chandurkar, Additional Government Pleader and Ms. G. R. Raghuwanshi, AGP for Respondent-State.

Mr. Mahesh I. Dhatrak, Advocate for Respondent No. 4.

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

DATE: 8th DECEMBER 2025

P.C.:

The petitioner-Samiti seeks to espouse the cause registered voters residing within the respondent no.4-Council and seeks the following reliefs: -

"It is therefore, most humbly and respectfully prayed that, this Hon'ble Court may kindly be pleased to issue an appropriate Writ, Order or Direction: -

- i) hold and declare that the inaction on the part of the respondent nos. 1 and 3-State Election Commission, Mumbai and Returning Officer for General Election of Municipal Council Kamptee appointed for the Elections of President of respondent no. 4-Municipal Council, Kamptee in conducting election as per final voter list published on 31.10.2025 (Annexure-B) and conducting election as per booth-wise voter list (Annexure-C) is illegal;*
- ii) direct the respondent nos. 1 and 3-State election Commission, Mumbai and Returning Officer for General election of Municipal*

Council Kamptee to decide the representation/complaint dated 02.12.2025 (Annexure-D) made by the petitioner, forthwith.”

2. Mr. Ingole, the learned counsel for the petitioner, submits that the final voter list for the General Election 2025 of the respondent no. 4-council was published by the respondent no.1 on 31st October 2025. The respondent nos.1 to 3 were duty bound to adhere to the final voter list as published on 31st October 2025. He contends that the respondent no.2 failed to abide by the published voter list and conducted the election on 2nd December 2025 on the basis of new booth-wise voter list. Due to the discrepancies, not only it caused confusion amongst the voters, it deprived hundreds of voters of their legal right to vote in the election held on 2nd December 2025. This has caused immense prejudice to the contesting candidates and the voters at large. The petitioner has lodged a complaint on 2nd December 2025 with the respondent no.3 regarding the said discrepancy in the final voter list and booth-wise voter list but no action has been taken.

3. In our view, this petition cannot be entertained. The petitioner is not an aggrieved party. Secondly, it has raised several contentions which are all disputed questions of facts. They cannot be adjudicated in a writ petition. A reference can be made to Article 243-ZG of the Constitution of India which expressly bars the interference by the Courts in electoral matters and provides a remedy of election petition to be presented before the such authority as may be prescribed to question any election to Municipal Councils. Section 21 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 lays down the procedure to challenge validity of any election held under the Act. The Article 243-ZG reads as follows:

“243-ZG. Bar to interference by courts in electoral matters. Notwithstanding anything in this Constitution,—

- (a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 243-ZA shall not be called in question in any court;*
- (b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.]”*

5. Following the decision of *“Lakshmi Charan Sen v. A.K.M. Hassan Uzzaman”* (1985) 4 SCC 689, the Hon’ble Supreme Court in *“Anugrah Narain Singh v. State of U.P.”* (1996) 6 SCC 303, while dealing with Article 243-ZG observed that:

“11. The question that came up for decision before the Allahabad High Court has been stated in the judgment in the following words:

“... the common question raised in all these petitions is as to whether in terms of Article 243-ZG of the Constitution there is complete and absolute bar in considering any matter relating to municipal election on any ground whatsoever after the publication of the notification for holding municipal election.”

- 12. The answer must be emphatically in the affirmative. The bar imposed by Article 243-ZG is twofold. Validity of laws relating to delimitation and allotment of seats made under Article 243-ZA cannot be questioned in any court. No election to a municipality can be questioned except by an election petition. Moreover, it is well settled by now that if the election is imminent or well under way, the court should not intervene to stop the election process. If this is allowed to be done, no election will ever take place because someone or the other will always find some excuse to move the court and stall the elections.”*

6. The law relating to the writ jurisdiction of the High Court with respect to election matters when the election process is still ongoing was recently summarised by the Hon’ble Supreme Court in *“State of Goa v. Fouziya Imtiaz Shaikh”* (2021) 8 SCC 401. While dealing with analogous constitutional bar under Article 243-ZG with respect to municipality elections, the Court held as follows:

“63. A conspectus of the aforesaid judgments in the context of municipal elections would yield the following results.

I. Under Article 243-ZG(b), no election to any municipality can be called in question except by an election petition presented to a Tribunal as is provided by or under any law made by the Legislature of a State. This would mean that from the date of notification of the election till the date of the declaration of result a judicial hands-off is mandated by the non-obstante clause contained in Article 243ZG debarring the writ court under Article 226 and Article 227 from interfering once the election process has begun until it is over. The constitutional bar operates only during this period. It is therefore a matter of discretion exercisable by a writ court as to whether an interference is called for when the electoral process is “imminent” i.e., the notification for elections is yet to be announced”.

7. The aforementioned constitutional bar and the judicial precedents lays down the clear position of law that the scope of this Court under Article 226 that this Court cannot interfere in the ongoing election process if such interference does not have an effect of either subserving or facilitating the same. The directions sought by the present writ petition would require the respondent no.1 to revise the voters list and conduct the elections afresh. Such exercise would further cause unnecessary delay in completion of the election process. We see no need to exercise the jurisdiction under Article 226 and **Writ Petition No.16667 of 2025 is dismissed.**

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]