

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1077 OF 2024

Dhananjay Khushlrao Garje ...Petitioner
Versus
The Election Commission Of India ...Respondent

Ms. Trisha Choudhari h/f. M.A. Choudhari for Petitioner.
Ms. Naira Jejeebhoy a/w Arun Panickar, Mr. Vinay Nair, Mr.
Tanmay Pawar for Respondent No.1 and 2.
Mr. Manish Upadhye, AGP for Respondent No.5.

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.**

DATED : 28 November 2025

P.C.:-

1. Heard learned counsel for the parties.
2. By filing this Petition, the Petitioner seek the following substantive reliefs:-

- “a. That this Hon'ble Court be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction directing the Sole Arbitrator to recuse himself from the present under Article 226 of the Constitution of India inter-alia arbitration proceeding;*
- b. In alternate to prayer clause (a) this Hon'ble Court be please to appoint another arbitrator along with the sole arbitrator and direct them to appoint a third arbitrator to decide upon the dispute between the parties;*

- c. *Pending the hearing and final disposal of the present writ petition the Hon'ble Court be please to stay the arbitration proceeding;*
- d. *For cost of this petition.”*

3. On 26 March 2024, this Court made the following order:-

- “1. We have heard the learned counsel for the petitioner and the learned counsel for the respondents.*
- 2. The challenge as raised in the petition is to the validity of Clause nos.1.3, 2.3.4, 2.3.5 and 2.3.6 of the Revised Instructions issued by the Election Commission of India dated 5th September 2016 to the Chief Electoral Officers of six states namely Andhra Pradesh, Telangana, Bihar, Karnataka, Uttar Pradesh and Maharashtra.*
- 3. The contention of the Petitioner is primarily in regard to the discretion kept with the Head of the Institution to issue a certificate as provided for in Clause no.2.3.5 which reads thus:*

“2.3.5 Every person applying for enrolment (in Form-19) in Teachers' constituency must submit documentary proof of having been engaged in teaching in any of the specified educational institutions for a total period of at least three years within six years immediately before the qualifying date. The Electoral Registration Officer or the Assistant Electoral Registration Officer concerned should make such verification of the documentary proof as he considers necessary. A certificate by the Head of the teaching institution should normally be considered adequate documentary proof of possessing that teaching qualification. The certificate from the Head of the Institution shall be in the Format at Annexure-2

Clarification - If any person, who has applied for inclusion of his name in a teachers' constituency, has been engaged in teaching in more than one specified educational institutions in the last six years, the certificate from the Head of institution of each of such educational institution will be required for the period for which he was engaged in teaching in that educational institution.”

4. *It is submitted that, in fact, there are large number of educational institutions. There are disputes many times as to who is the Head of the Institution. Thus, Clause 2.3.5 leaves the entire discretion to the Head of the Institution to issue a certificate that a particular person has been engaged in teaching in any of the specified educational institutions for a total period of at least three years within six years immediately before the qualifying date. It is the Petitioner's submission that, if such a discretion is vested with the Head of the Institution, it needs to have further sanctity by way of such certificate being counter signed / approved by the Education Officer or the Deputy Director of Education. It is submitted that, in fact, a large number of bogus certificates have been submitted in the past, in respect of which even the Election Commission of India has filed FIRs. Mr. Choudhary has also submitted that, in fact, Clause 2.3.6 also makes a provision for the Election Registration Officer to receive list of specified educational institutions obtained by the Chief Election Officer from the State Government and also provides that he should collect information of all persons who are eligible for enrolment in Teacher's Constituency from heads of specified educational institutions. It is submitted that Clauses 2.3.5 and 2.3.6 conjunctively read, would support the Petitioner's contention that the endeavour of the Election Commission of India is also to maintain the purity of the election process by having genuine and eligible persons enrolled from the teachers' constituency. However, the discretion being left to the Head of the Institution is what is objected by the petitioner. Clause 2.3.6 can also be noted which reads thus:*

"2.3.6 - *As soon as Electoral the Chief Electoral Officer from State Government, he should collect information about all persons who are eligible for enrolment in Teacher's Constituency from heads of specified educational institutions. He should further check whether all such eligible persons are enrolled in the draft electoral rolls being prepared by him or not. If the Electoral Registration Officer finds that an eligible person is left out, he should send a blank Form 19 to the concerned person with a request to fill the application form and send it to the Electoral Registration Officer through the*

head of the institution, in which the applicant has been working.”

5. *After hearing the learned counsel for the parties, we are prima facie of the view that there is substance in the contention as urged on behalf of the Petitioner. At the end of Clause 2.3.5 if it is incorporated that the certificate issued by the Head of the Institution should be counter signed / approved by the concerned Education Officer or Deputy Director of Education, in our opinion, it would suffice the purpose that only bona fide and genuine persons are enrolled in the teachers’ constituency. This considering the fact that there are thousands of educational institutions and there are disputes as to who is the Head of the Institution. In these circumstances, we accept the request made on behalf of the learned counsel for the Election Commission of India to adjourn the proceedings so that appropriate decision is taken in that regard. We adjourn the proceedings for a period of two weeks so that the Election Commission of India responds to this Petition by filing a reply affidavit.*
 6. *Stand over to 10th April 2024, High on Board.”*
4. Further on 8 May 2024, this Court, made the following order:-

- “1. The learned counsel appearing for Respondent Nos.1 and 2, on instructions, submits that in accordance with what has been stated in paragraph 5 of the order dated 26th March 2024, appropriate steps would be taken. It is stated that on the certificate issued by the Head of the Institution, counter signature would be directed to be made by the Education Officer or Deputy Director or any Officer authorised by the Department of Education of the State Government prospectively.*
- 2. It is submitted that within a period of 10 days from today, such Affidavit shall be filed. Leave granted to file such Affidavit.*
- 3. Stand over to 12th June 2024, with liberty to apply in case of any contention.”*

5. Ms. Naira Jejeebhoy, learned counsel for the first and second Respondents now states that necessary affidavit has been filed on 16 May 2024 consistent with the observations in the orders dated 26 March 2024 and 8 May 2024 referred to hereinabove.

6. The learned counsel for the Petitioner states that the Petitioner is satisfied with the statements made in the affidavit and that the Petition could be disposed of by accepting such statements. Accordingly, we accept the statements made in the affidavit filed by Shri Sharad Dalvi, Joint Chief Electoral Officer, and on such basis, dispose of this Petition. The first and second Respondents must now act consistent with the statements made in the said affidavit.

7. The Petition is disposed of in the above terms without any costs order.

8. All concerned to act upon an authenticated copy of this order.

(Advait M. Sethna, J)

(M.S. Sonak, J.)