

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ELECTION PETITION NO. 20 OF 2025

Prithviraj Dajisaheb Chavan

...Petitioner

Versus

Atul Suresh Bhosale & Ors

...Respondents

WITH

APPLL. IN ELECTION PETITION NO. 7 OF 2025

IN

ELECTION PETITION NO. 20 OF 2025

AND

ELECTION PETITION NO. 33 OF 2025

Gajanan Shankar Avalakar

...Petitioner

Versus

Atul Suresh Bhosale & Ors

...Respondents

WITH

APPLL. IN ELECTION PETITION NO. 8 OF 2025

IN

ELECTION PETITION NO. 33 OF 2025

Mr. Hitesh Lala, i/b Durgaprasad Sabnis, for the Petitioner.

**Mr. Anil V. Anturkar, Senior Advocate, a/w Kashish Chelani,
Atharva Date i/b Ranjit D. Shinde, for Respondent No.1.**

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : AUGUST 26, 2025

ORDER :

1. The captioned Election Petitions were listed last week on the basis of the dates given earlier and owing to non-availability of counsel, they were stood over today.

2. These Election Petitions had been assigned to this Bench. With effect from August 18, 2025, these Election Petitions have been transferred to the newly established Circuit Bench at Kolhapur.

3. Learned Senior Advocate Mr. Anil Anturkar, representing the returned and elected candidate in the Karad constituency, which falls in District Satara, submits that although a Circuit Bench in Kolhapur has been established and the captioned Election Petitions are transferred to the said Bench, in terms of the applicable provisions of law, the captioned proceedings cannot be considered as having been removed from the judge presiding over this Bench.

4. According to Mr. Anturkar, even if the matters have to be heard in Kolhapur, the jurisdiction over Election Petitions is “judge-centric” and regardless of where the matters are heard, the judge hearing them cannot change, unless specifically assigned by the Chief Justice afresh to another judge.

5. Toward this end, Mr. Anturkar would point to Rule 26 of the Bombay High Court (Original Side) Rules (“***OS Rules***”) which provides for exercise of original jurisdiction of the High Court by one or more Judges of the High Court *subject to any Rules of the Court*. He would also point to the Appendix II to the OS Rules framed by this High Court

in relation to Election Petitions filed under the Representation of the People Act, 1951 (“***RP Act***”).

6. Pointing to the definition of the term “*the Judge*” in Appendix II, he would submit that the term necessarily means the specific judge to whom an Election Petition has been assigned by the Chief Justice for trial of Election Petitions under Section 80(A)(2) of the representations of the People Act, 1951, who would then exercise jurisdiction in terms of Rule 26 of the OS Rules.

7. According to Mr. Anturkar, the third paragraph of Rule 4 in Appendix II provides for the Prothonotary and Senior Master of the relevant bench of this High Court that must be presented with Election Petitions, on the basis of the judicial district in which the constituency falls. By a notification dated August 11, 2025 (“***Amendment Notification***”) Appendix II has been amended to make room for the jurisdiction of the Kolhapur Bench by providing for Election Petitions arising in the judicial districts of Kolhapur, Ratnagiri, Satara, Sangli, Sindhudurg and Solapur (“***Carved out Districts***”) being presented in the Kolhapur Bench. He would submit that this provision only deals with the Bench to which Election Petitions relating to the judicial districts

would need to be presented, and does not deal with the status of pending Election Petitions.

8. Mr. Anturkar would then point to a notice, also dated August 11, 2025, issued by the Prothonotary and Senior Master on the Original Side of the Principal Bench of this High Court at Bombay (“*Prothonotary Notice*”) to indicate that not only would new Election Petitions arising in the Carved out Districts have to be presented to the Kolhapur Bench but also that existing Election Petitions pending as of August 18, 2025 would stand transferred to the Kolhapur Bench. Mr. Anturkar would submit that the Prothonotary Notice is an instrument unknown to law and in any case cannot be contrary to the Rules.

9. Therefore, he would submit that it would be necessary to call upon the Registry to examine whether the issuance of the Prothonotary Notice has been approved by the Chief Justice and whether any order has been passed assigning the Election Petitions to any specific judge of the Kolhapur Bench. Only then could this Bench not be considered, he would submit, to be seized of the captioned Election Petitions. Since the jurisdiction over Election Petitions is “judge-centric” even if the venue may change, the same judge may have to travel to Kolhapur to conduct the proceedings.

10. It would be necessary to extract the third paragraph of Rule 4 in Appendix II, which reads thus:-

“Election Petitions arising from the rest of the areas of the State of Maharashtra or arising in the residuary Union Territory of Daman and Diu, and the Union Territory of Dadra and Nagar Haveli which lie to the High Court of Bombay shall be presented to the Prothonotary and Senior Master, High Court, Bombay, or such other Officer as the Prothonotary and Senior Master may, by special or general orders passed from time to time appoint in this behalf.”

11. Clause 10 of the Amendment Notification provides thus:

“10. In Paragraph 3 of Rule 4 in Appendix II of the Principal Rules, after the words "Election Petitions arising from the", insert "Judicial Districts Kolhapur, Ratnagiri, Satara, Sangli, Sindhudurg and Solapur shall be presented at Circuit Bench at Kolhapur”

12. The Prothonotary Notice provides as follows:

“It is hereby notified for the information of the Advocates and parties appearing-in-person that as per Notification dated 11 August, 2025, the tax matters and Election Petitions arising in the judicial districts - Kolhapur, Ratnagiri, Satara, Sangli, Sindhudurg and Solapur shall be lodged with the Circuit Bench at Kolhapur of the Bombay High Court with effect from 18th August, 2025.

They are accordingly informed that the fresh filing of such tax matters and Election Petitions will not be accepted in this Registry with effect from 18th August, 2025.

They are further informed that the tax matters and Election Petitions arising in the aforesaid judicial Districts, pending in the High Court as on 18th August, 2025 shall be transferred to the Circuit Bench at Kolhapur of the Bombay High Court.”

13. A careful reading of the third paragraph of Appendix II to the OS Rules would show that Election Petitions shall be presented to the Prothonotary and Senior Master, High Court, Bombay or to such other officer as the Prothonotary and Senior Master may designate by special or general order passed from time to time in this behalf. By the Amendment Notification, this has been changed to provide for presentation of the Election Petitions relating to the territory of the Carved Out Districts being presented to Kolhapur Bench.

14. The Prothonotary Notice is issued “By Order” to also provide for pending Election Petitions to be transferred to the Kolhapur Bench. This is the action on which Mr. Anturkar raises doubts on the premise that the amended Appendix II changes only the requirement of presentment of Election Petitions of the Carved Out Districts to the Kolhapur Bench. He would submit that only new petitions would be covered by the Amendment Notification while to shift existing and pending petitions, there ought to be an explicit order by the Chief Justice, which he would submit, this Bench should ask the Registry to

produce before deciding that this Bench does not have jurisdiction in the matter.

15. Considering that the Circuit Bench at Kolhapur has been established and by order, the Prothonotary Notice has been disseminated, all the captioned Election Petitions already stand transferred to the Kolhapur Bench.

16. Therefore, it is for Respondent No. 1 to ascertain which judge the petitions are now assigned to. The very fact that the roster for the various benches of this Court is created by the Chief Justice as the master of the roster, the making of such roster would itself be an assignment of work relating to the captioned Election Petitions, which are pending as of August 18, 2025, by the Chief Justice in terms of Rule 27 of the OS Rules, which reads thus:

27. Assignment of work to be made by the Chief Justice:- Suits, summary Suits, Matrimonial Suits, Commercial Causes, Testamentary and Intestate Suits, and matters, Writ Petitions, Company Matters, Land Acquisition References, Income-tax and other tax matters, Insolvency matters, Admiralty and Vice-Admiralty Suits, Disciplinary Matters and all other matters and proceedings in the exercise of the Original Jurisdiction of the High Court shall be heard before such Judges as the Chief Justice shall from time to time appoint.

17. Should Mr. Anturkar have a grievance about the validity of such a transfer, his recourse would not be to air it before this Bench, which no longer has jurisdiction in the matter. Whether the Prothonotary Notice is validly issued; whether it is in conflict with the OS Rules or Appendix II as amended by the Amendment Notification may be questions for agitation before an appropriate forum having appropriate jurisdiction to consider any such challenge, but not before this Bench which is no longer seized of the captioned Election Petitions.

18. Such grievances cannot be agitated before this Bench, from which the Election Petitions already stand transferred. It would be most inappropriate for this Bench to consider and pronounce upon the questions sought to be raised by Mr. Anturkar considering that it does not have the jurisdiction to do so. Once the pending Election Petitions are transferred, one has to presume the validity of the transfer. Unless and until a challenge to the validity of the transfer before a forum with jurisdiction in the matter is allowed, it has to be presumed that the Prothonotary Notice is valid and holds the field.

19. That apart, such a question itself would be moot considering that the roster for hearing Election Petitions relating to constituencies in the Carved Out Districts has been created assigning work to specific

judges. The contention that Election Petitions are judge-centric regardless of the location of the Bench does not appeal to me since, by making the roster, the term “the judge” would now bring within it sweep, the judge to whom the petitions are now assigned.

20. With the aforesaid observations, no orders are being passed by this Bench, which is already lacking in jurisdiction over the captioned Election Petitions. Registry shall examine the roster of the Kolhapur Bench and list the captioned Election Petitions before the judge to whom such work has been assigned.

21. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court’s website.

[SOMASEKHAR SUNDARESAN, J.]