

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

**APPLICATION NO. 12 OF 2025
IN
ELECTION PETITION NO. 26 OF 2025**

Rahul Mundake

...Applicant/
Orig.Respondent No.2

IN THE MATTER BETWEEN

Pandharinath Dnyaneshwar Jadhav

...Petitioner

V/s.

Election Commission of India and Ors.

...Respondents.

Adv. Abhijit Kulkarni a/w Adv. Sweta Shah & Adv. Abhishek Roy,
Advocate for Applicant/Orig.Respondent Nos. 1 and 2.
Adv. Khalid Ansari, Advocate for the Petitioner.

CORAM : N.R. BORKAR, J.
DATE : 18.12.2025.

P.C. :

1. Respondent Nos. 1 and 2 by this application have
prayed that:

a) That this Hon'ble Court be please to declare
that the EVM's consisting of Ballot Units 331 and
Control Units 331 which are kept in custody of
the District Election Officer are not necessary for
the adjudication or determining the dispute in
the above Election Petition.

b) That this Hon'ble Court be pleased to release 331 Ballot Units and 331 Control Units which are kept in the custody of the District Election Officer.

c) That, this Hon'ble Court may kindly be pleased to strike off the name of Respondent No 1 and 2 from the array of Respondents of this petition, to secure the ends of justice.

2. I have heard the learned counsel for the respondent Nos. 1 and 2 and learned counsel for the petitioner.

3. The learned counsel for the petitioner submits that prayers (a) & (b) can be granted, as EVMs in question are not necessary for determining the issue involved in the present Petition.

4. As regards prayer (c) the learned counsel for the petitioner submits that the action of respondent No.2-The Returning Officer is under challenge, as, according to the petitioner, respondent No.2 erred in rejecting his nomination paper. It is submitted that prayer (c) thus needs to be rejected.

5. On the other hand, the learned counsel for the respondent Nos. 1 and 2 submits that it is well settled that the Election Commission of India and the Returning Officer are not necessary parties to the Election Petition. In support of submission, the learned counsel for the respondent Nos. 1 and 2 has relied upon the decision of the Hon'ble Supreme Court in ***Jyoti Basu and Ors. vs. Debi Ghosal and Ors***¹.

6. The present Election Petition is filed on the ground of improper rejection of the nomination paper of the petitioner by respondent No.2. In that view of the matter, the prayer clause (c) cannot be allowed. In the result, the following order is passed :

ORDER

- i) The Application is partly allowed in terms of prayer clause (a) & (b).
- ii) The prayer clause 'C' is rejected.
- lii) The Application is disposed of in the aforesaid terms.

[N.R.BORKAR, J.]

¹ (1982) 1 SCC 691
Pramod S.Lakare