



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO.5 OF 2022

APPLICANT : 1) **Rashid Kha S/o Yusuf Kha Jamadar,**
aged about 66 years, Occu.:
Agriculturist, R/o. Parpeth, Malkapur,
Tahsil Malkapur, District Buldhana.

..VERSUS..

NON-APPLICANTS : 1) **The State of Maharashtra,**
Through its Secretary, Department of
Home, Mantralaya, Mumbai 400 032.

2) **The State of Maharashtra,**
Through Police Station Officer, Police
Station Malkapur City, Tehsil Malkapur,
District Buldhana.

3) **Election Officer** Nagar Parishad
Malkapur Election 2016, Election-cum-
Sub-Divisional Officer, Malkapur,
Tahsil Malkapur, District Buldhana.

4) **Assistant Election Officer,**
Nagar Parishad Malkapur
Election-2016-cum-Chief Officer,
Municipal Council, Malkapur, District
Buldhana.

5) **Anilkumar Ingale,**
Aged about 46 years, Occu.: Labour,
R/o.152, Anand Bhavan, Dr.Babasaheb
Ambedkar Ward, Ward No.16, Bhim
Nagar, Malkapur, Tahsil Malkapur,

District Buldhana.

Mr. V.B. Rathi h/f Mr. P.B. Patil, Advocate for applicant
Ms Prachi Joshi, APP for the non-applicant Nos.1 and 2/State
Ms Ishika Jaiswal h/f Mr. Abhay Sambre, Advocate for the non-applicant Nos.3 and 4

CORAM : **ANIL S. KILOR, J.**
DATE : **17th MARCH, 2025**

ORAL JUDGMENT

1. Heard.
2. **Rule.** Rule is made returnable forthwith. Heard finally by consent of the learned counsel for the respective parties. The non-applicant No.5 (in person) is absent today.
3. The present matter is filed by an elected councilor of the Municipal Council under Section 482 of the CrPC for quashing of Summary Criminal Case No.888 of 2021 filed by the non-applicant No.4-Assistant Election Officer-cum-Chief Officer, Municipal Council, Malkapur, for the offences punishable under Sections 199 and 200 of the IPC.
4. The allegation against the applicant is that, in a declaration submitted by the applicant along with his

nomination form for the election of Councilors of Municipal Council, he gave false information of his education qualification. It is alleged that the applicant is 10th Std., whereas, in the declaration, he mentioned it as 12th Std.

5. The learned counsel for the applicant argues that there is no education qualification prescribed for contesting an election as 'Councilor' of the Municipal Council. He therefore submits that such an error in mentioning the education qualification cannot be held as intentional. It is submitted that, the applicant did not receive any advantage from the said alleged act.

6. It is pointed out that except for the above-referred error committed, there is no other allegation of any misstatement or incorrect statement made by the applicant in the declaration submitted along with the nomination form. He therefore submits that considering the language used under Sections 199 and 200 of the IPC, no offence will attract, in the given facts and circumstances.

7. On the other hand, the learned APP strongly

opposed the application and submits that since incorrect information was submitted along with the declaration form, the offences punishable under Sections 199 and 200 of the IPC, would attract.

8. The learned counsel for the non-applicant Nos. 3 and 4, submits that filing of a declaration along with nomination form is mandatory, and every candidate in the election is duty bound to provide true information. It is submitted that since incorrect statement was made in the declaration form, a complaint was rightly made by the non-applicant No. 4.

9. In the above-referred backdrop, I have perused the record and a complaint. It is evident from the record that except for the fact that despite the applicant possesses education qualification 10th Std., in the declaration form, it is stated as 12th Std.

10. None of the non-applicants has pointed out any minimum criteria, relating to education qualification to qualify to contest the election for the post of 'Councilor' of the Municipal Council. It is thus, evident that there is no education

qualification required to contest the election, which the applicant contested and got elected.

11. Therefore, it cannot be said that by making the alleged incorrect statement, relating to his education qualification, he received any gain or advantage. Even from the language of Section 199 of the IPC, it is evident that as pre-requisit, such statement must be made and received by the authority as evidence of any fact. To be more precise, to attract the offence under Section 199 of the IPC, any statement on fact which is made and received by the authority, shall be of such a nature that if it is found to be incorrect or false, the result will be adversely affected or would change.

12. In the present matter, it is not the case of the informant that because of such a fact mentioned in the declaration as regards the educational qualification of the petitioner, the result would be changed, like the petitioner would be disqualified for not having the requisite educational qualification to contest the election. In the circumstances, it cannot be said that there was an intention of the petitioner to

make an incorrect statement of his education qualification in the nomination and declaration form. Thus, I have no hesitation to hold that the offences under Sections 199 and 200 of the IPC would not attract in the instant case. Accordingly, I pass the following order:

- (i) The application is **allowed**.
- (ii) The Summary Criminal Case No.888 of 2021, filed by the non-applicant No.4-Assistant Election Officer-cum-Chief Officer, Municipal Council, Malkapur, and pending before the learned Judicial Magistrate First Class, Malkapur, is hereby quashed and set aside.

Rule Accordingly.

(ANIL S. KILOR, J.)