



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

WRIT PETITION NO. 4627 OF 2025

1. Shri Dilip S/o Rambhau Jadhav,
Aged 61 yrs., Occupation : Social Work,
R/o At Ramnagar, Jadgavhan, Post Tornala,
Tahsil Malegaon, District Washim.
2. Shri Prataprao S/o Anandrao Ghuge,
Aged 51 yrs., Occupation : Social work,
R/o At Eranda, Tahsil Malegaon, District Washim.
3. Shri Rajesh S/o Babarao Sangale,
Aged 49 years, Occupation : Social work,
R/o At and Post Eranda, Tahsil Malegaon,
District Washim.
4. Shri Vikas S/o Uttam Kamble,
Aged 35 yrs., Occupation : Social work,
R/o At Waroda, Post Eranda, Tahsil Malegaon,
District Washim.
5. Shri Aakash S/o Kailash Wankhede,
Aged 28 yrs., Occupation : Social Worker,
R/o At Borala, Post Eranda, Tahsil Malegaon,
District Washim.
6. Shri Kacharu S/o Keshav Zombade,
Aged 39 yrs., Occupation : Social Work,
R/o At and Post Kinh Raja, Tahsil Malegaon,
District Washim.
7. Shri Tanaji S/o Navnath Mukhada,
Aged 45 yrs., Occupation : Social work,
R/o At Bhairal doh, Post Eranda, Tahsil Malegaon,
District Washim.
8. Shri Pundalik S/o Motiram Ghuge,
Aged 45 yrs., Occupation : Social Work
R/o At Bhairal Doh, Post Eranda, Tahsil
Malegaon, District Washim.

... PETITIONERS

Amended as per
order dated
18.08.2025.

9. Ishwar Bhopa Jadhav,
Age : 39 years, Occu. Agri.
R/o At Udi, Post Amana, Tal. Malegaon,
Dist. Washim.

... **PETITIONERS**
(INTERVENERS)

10. Arun Bhimrao Ghuge,
Age : 35 years, Occu. Agri.
R/o At Mairal Doh, Post Yeranda,
Tal. Malegaon, Dist. Washim.
11. Gajanan Mahadeo Kakde,
Age : 34 years, Occu.: Agri.
R/o At Khadki, Post Pangari,
Tal. Malegaon, Dist. Washim.
12. Raju Chandusingh Jadhav,
Age 39 years, Occu. : Agri.
R/o At Pangari Dhankute, Post Kata,
Tal. Malegaon, Dist. Washim.
13. Santosh Keshav Dhangar,
Age : 39 years, Occu. Agri.
R/o At Masla, Post Amkheda,
Tal. Malegaon, Dist. Washim.

// V E R S U S //

1. State of Maharashtra,
through the Secretary of
Rural Development Department,
Mantralaya, Mumbai-32
2. The Divisional Commissioner,
Amravati Division, Amravati, Tahsil
& District Amravati.
3. The Collector, Washim, Tahsil &
District Washim.
4. The State Election Commission,
through its State Election Commissioner,
having office at First Floor, New Administrative
Building, Hutatma Rajguru Chowk,
Madam Cama Road,
Mumbai 400032.

... **RESPONDENTS**

=====

Shri A. M. Ghare, Advocate for the petitioner Nos.1 to 8.

Shri Yashowardhan Sambre, Advocate for applicants/intervenor Nos. 9 to 13.

Shri D. V. Chauhan, Senior Counsel and Government Pleader with Shri D. P. Thakare, Additional Government Pleader and Shri Chaitnya Dhruv, Advocate for respondent Nos.1 to 3.

Shri A. M. Kukday, Advocate for respondent No.4.

=====

CORAM: ANIL S. KILOR AND

AJIT B. KADETHANKAR, JJ.

DATED : 22/08/2025.

JUDGMENT (Per: Ajit B.Kadethankar, J.)

1] **Rule.** Rule made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.

SUBJECT MATTER :

2] Vide present writ petition u/a 226 of the Constitution of India, the petitioners seek indulgence of this Court to quash and set aside the decision taken by the respondent No.2 – Divisional Commissioner, Amravati on 11/08/2025 whereby the said authority has ‘included and excluded’ some villages ‘in and out’ of Gats/Gans of Zilla Parishad, Washim and the Panchayat Samities falling therein. Precisely, the petitioners have challenged the ward formation and formation of electoral divisions that is being carried for ongoing general elections of Zilla Parishad Washim and Panchayat Samitis therein.

3] **The brief facts of the case are as under :-**

3.1 The elections to the local bodies in the State of Maharashtra have fallen overdue on account of pending challenges to certain statutory provisions and amendments in the Local Body Laws. Vide its order dated 06/05/2025 the Hon'ble Supreme Court in Special Leave to Appeal (C) No.19756/2021 with connected matters, issued directions to State Election Commission as well as to the State Government, thereby mandating to conduct elections to the Local Bodies in the State of Maharashtra immediately and to conclude the same within a period of four months. Those directions are reproduced as below for ready reference :-

- i] *The elections to the local bodies shall be notified by the State Election Commission within four weeks;*
- ii] *The reservation shall be provided to the OBC communities as per the law as it existed in the State of Maharashtra prior to the 2022 Report of the Banthia Commission.*
- iii] *An endeavor shall be made to conclude the elections within a period of four months. However, the State Election Commission shall be at liberty to seek extension of time in appropriate cases; and*
- iv] *The Elections shall be held subject to the outcome of these proceedings.*

3.2 An election to local body comprises of three stages i.e.

- i] Ward formation & reservation,
- ii] Finalizing Electoral Rolls (Voters' Lists), and

iii] Actual election process which comprises of nominations, publication of valid nominations, allotment of election symbols, polling and declaration of the election results.

3.3 Section 12 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (for the sake of brevity, “Act of 1961”), empowers the State Government to divide the district into equal electoral divisions for the purpose of the election. Section 12 (1) of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 is reproduced as under :-

“Section 12. Division of District into electoral division.- (1) [The [State Government or an officer authorised by it, with the approval of the State Election Commission] shall, for the purposes of election of Councillors divide every District;] into electoral divisions (the territorial extent of any such division not being outside the limits of the same Block), each returning one Councillor, and there shall be a separate election for each electoral division :

[Provided that, such electoral division shall be divided in such a manner that the ratio between the population of each electoral division and the total number of Councillors to be elected for the *Zilla Parishad* shall, so far as practicable, be the same throughout the *Zilla Parishad* area :]

[Provided further that, while distributing such electoral divisions among the *Panchayat Samitis*, not less than two electoral divisions shall be allotted to each *Panchayat Samit*.]

3.4 Accordingly, the State of Maharashtra initiated the ward formation process for the purpose of election to the Zilla

Parishads and Panchayat Samities in the State of Maharashtra including Washim Zilla Parishad and Panchayat Samities therein. The State of Maharashtra through its Rural Development Department Zilla Parishads and Panchayat Samities issued an Election Order naming it “Zilla Parishads and Panchayat Samities General Elections (Number of Members and Ward Formation) Order, 2025 on 12/06/2025 (Hereinafter referred to as “Election Order of 2025”).

3.5 The Election Order of 2025 comprehensively comprises the entire procedure for preparing wards i.e. Electoral Divisions commonly known as Nirwahan Gat and Gans.

Clause (4) of the Election Order of 2025 lays down the procedure of preparing Electoral Divisions and Nirwahan Gan and Gats. For that, a Committee is composed in the order itself which comprises of :-

- i] An Officer of Deputy Collector Cadre designated by the District Collector;
- ii] Three Tehsildars conversant with ward formation process.
- iii] Computer Technician and
- iv] Other staff officers as per requirement.

3.6 The aforesaid Committee prepares a draft design of ward formation. In view of Clauses (5) & (6), such draft is to be

published by the designated officers publicly inviting objections / suggestions to the draft to be lodged within a specified period.

3.7 Clause (7) contemplates hearing on objections those received within the given stipulated period.

3.8 Clause (8) provides for publication of the final ward formation.

3.9 In the case in hand, the State of Maharashtra declared the ward formation program for the general election to the Zilla Parishads and Panchayat Samitis in the State of Maharashtra on 12/06/2025. The Schedule-A to the said program prescribes a schedule for ward formation as follows :-

	<u>Programme</u>	<u>Till</u>
i]	Publication of ward formation notice	14/07/2025
ii]	Period to lodge objections and suggestions.	21/07/2025
iii]	Submission of proposed draft along with opinions by the District Collector to the Divisional Commissioner.	28/07/2025
iv]	Conducting hearing on the objections and suggestions followed by the decision thereon by the Divisional Commissioner.	11/08/2025
v]	Submissions of final ward formation	18/08/2025

	by the District Collector to the State Election Commission for its approval.	
--	---	--

3.10 It is undisputed that the aforesaid program has been conducted by the concerned authorities as per the given schedule. The petitioners lodged their grievance and suggestions within stipulated time. They objected for inclusion of certain village in particular electoral divisions and also for exclusion of particular villages out of some of electoral divisions and Gans and Gats. The District Collector remarked his opinion thereon and submitted the same to the Respondent No.2 - the Divisional Commissioner Amravati. The Respondent No.2 – Divisional Commissioner, Amravati considered the material put before him/her and passed the decision on the objections and suggestions. Its being dissatisfied with decision of the Respondent No.2 in respect of certain villages, the Petitioners have rushed with the prayers to quash and set aside the ward formation as prayed in the prayer clauses. We have discussed further each objection of the Petitioners.

4. PETITIONERS' CONTENTIONS :

i] Petitioners objects inclusion of village Mairal Doh to Jaulka Gan / Gat against its removal from Kinhi Raja Gan / Gat.

ii] Petitioners also object removal of Jamkhed from Brahmanwada Gan and its addition to Jaulka Gan/Gat. Objection is also for removal of Udi, Dhamdami and Vardari Khurd Village from Jaulka Gan/Gat against its addition to Kinhi Raja Gat and Kavardari Gan.

iii] Petitioners have further objection of addition of village Pangari Dhankute and Khadki Ijara to Pangari Nawghare Gan/Gat and against its removal from Jaulka Gan/Gat and Jodgavhan Gat.

iv] Further objection of petitioners' is against addition of Masala (kh) to Brahmanwada Gat and Borgaon Gan by removing it from Pangari Navghare Gan/Gat.

v] The body of writ petition consists grounds for the petition in respect of the aforesaid transposition of the villages for the purpose of ward formation.

PETITIONERS' ARGUMENT:-

4.1 Firstly, while effecting the ward formation, the parameters laid down in the Election Order of 2025 are not at all followed by the respondent No.2.

4.2 Secondly, the respondent No.2 has unnecessarily taken exception to the opinions rendered by the District Collector.

4.3 Thirdly, there is apprehension that the voters from the transposed villages would face difficulty reaching to the polling booths allotted to the said villages.

4.4 Fourthly, that since there is no change in population after the National Census of 2011, there was no need to disturb the earlier ward formation that was carried for earlier elections which were based on the same National Census of 2011.

4.5 With this, the petitioners sought to quash and set aside the order passed by the respondent No.2 – Divisional Commissioner, Amravati dated 11/08/2025 whereby the ward formation objections are decided. Pertinently, the petitioners also pray for cancellation of the Ward Formation final program and to reschedule the same by postponing it.

4.6 Vide prayer for interim relief, the petitioners also prayed for postponement of the ward formation process and stay to the impugned decision dated 11/08/2025 passed by the respondent No.2 – Divisional Commissioner, Amravati.

5. RESPONSE OF THE STATE GOVERNMENT :-

5.1 At the outset, learned Senior Counsel and Government Pleader Shri D.V.Chauhan, vehemently raised preliminary

objections on maintainability of the writ petition at this juncture. He relied upon the Judgments rendered by the Hon'ble Supreme Court in the case of State of U.P. and others Vs. Pradhan Sangh Kshettra Samiti and others, reported in 1995 Supp(2) Supreme Court Cases 305. He also relied upon the Judgment rendered by the Co-ordinate Bench of this Court at Aurangabad Bench in the case of Sameer Subhash Rajurkar Vs. State of Maharashtra, reported in 2020 (3) ABR 205. The learned Senior Counsel and Government Pleader continued further to object maintainability of the writ petition referring to the Judgment rendered by the Hon'ble Supreme Court in the case of Anugraha Narayan Singh Vrs. State of U.P and others, reported at 1996 (6) SCC 303.

5.2 The learned Senior Counsel and Government Pleader insisted that the series of the Judgments cited supra consistently show view of the Hon'ble Supreme Court as also by this Court to not to interfere into the electoral process referring to the constitutional bar u/a 329, 243-O and 243-ZG that bars interference of the Courts in the electoral matters except by appropriate forum in an Election Petition.

5.3 In view of the Amended Section 12 of the Act of 1961, the State Government has been entrusted with responsibility to prepare ward formation and formation of electoral divisions Gans,

Gats as the case may be for the purpose of election to the Zilla Parishads and Panchayat Samities. Accordingly, the State Government has taken the process of ward formation into its hands.

5.4 That, the entire process of ward formation has been meticulously prescribed in the Election Order of 2025. That, the said order provides for appointment of competent authorities for every stage, as also their jobs and their authority in that regard.

5.5 That, the authorities designated and authorized in the Order of 2025 performed their jobs as prescribed in the Order of 2025. Suffice to note that the draft ward formation notice was published by the District Collector, the objections and suggestions received by the District Collector. The remarks were submitted by the District Collector to the Divisional Commissioner, and Divisional Commissioner has taken final decision on the objections & suggestions that too by giving thoughtful consideration to the objections, corresponding record, and the remarks recorded by the District Collector.

5.6 The learned Government Pleader specifically insisted that every opportunity of hearing was given to the objectors wherever such opportunity was prescribed.

5.7 That, the elections are being conducted under the orders of Hon'ble Supreme Court and interference in ongoing election process would not only be hit by Constitutional bars (supra), but also would result in delay in ongoing election process, which would be in violation of the order dated 06/05/2025 passed by the Hon'ble Supreme Court in Special Leave Petition (C) No.19756/2021 with connected matters.

5.8 Lastly, learned Senior Counsel and Government Pleader objects that the writ petition is premature one as the Ward Formation is not yet published in the Official Gazette, and that merely based on Petitioners' apprehension of losing an opportunity to contest the ensuing election from particular place.

ANALYSIS AND CONCLUSION :-

6] We have cautiously heard Shri A.M.Ghare, learned counsel for the petitioner Nos.1 to 8, Shri Y.N.Sambre, learned counsel for intervenor Nos. 9 to 13 and learned Senior Counsel and Government Pleader Shri D. V. Chauhan for respondent Nos.1 to 3.

7] We have minutely gone through the record produced by both the parties, particularly the objections raised by the petitioners to the draft ward formation. We may clarify here that

although learned Government Pleader has strenuously objected maintainability of the writ petition, considering the urgency in the matter and the nature of objections raised by the petitioners in the democratic process that is going at root level of democracy, we have dealt the issues on merits as follows:-

i] It is pertinent to note that Section 12 of the Act of 1961 refers to the term “population” of the district for the purpose of division of wards, electoral divisions Gans/Gats, as the case may be.

ii] Section 2 Sub-Section (22-A) of the Act of 1961 defines “population” as “population as ascertained at the last preceding Census of which the relevant figures have provisionally or finally be published”.

iii] Undisputed, after Census - 2011, no further National Census is conducted yet so far. Hence, the population that would be considered for the purpose of present election, is the present population recorded in the National Census – 2011.

iv] Although the petitioners’ contention that ‘as there is no change in population since last election, there is no need to re-form wards or to disturb the earlier ward formation’, prima facie appears to be appealing; however it cannot be overlooked that

over the years, naturally as also eventually there happens physical changes in the area and boundaries of the villages. Keeping in mind this factual aspect of expansion and depletion of village area affecting placement of population, the ward formation for every election is necessary. The petitioners could not demonstrate as to how the physical status of boundaries and area of the concerned villages have remained the same with the same population, after last election in order to avoid revisiting the ward formation. It is of course a critical disputed question of facts. In the absence of any such cogent evidence, petitioners' contention cannot be accepted that there was no need for ward formation due to merely consistent number of population based upon the latest Census.

v] Now, we will deal with the petitioners' actual objection of transposition of villages "to & from" certain Gans/Gats. We have gone through the record produced before us which shows that the objections are omnibus and not meticulous. Merely attachment and detachment of some villages to some electoral divisions, Gats/Gans as the case may be, would not give petitioners a good and cautious ground to challenge the ward formation process.

vi] The learned Government Pleader has demonstrated that the Election Order of 2025 permits variance of 10% [+/-] population in the electoral divisions, Wards, Gats/Gans, etc. as the

case may be. Obviously, there cannot be a perfect equal division of population in all the Electoral Divisions, wards, Gans/Gats, etc. That's why a provision for permissible variance in the proportionate population is made. Even the Statute also says that 'as far as possible' an equal proportion of population shall be maintained while carving out the electoral divisions, wards, etc. We accept the argument of learned Government Pleader that where villages have been attached to a particular Gans/Gats, another portion of that Gans/Gats has also been detached and that there is no dis-balance in the population of the Gans/Gats, electoral divisions as the case may be. At the cost of repetition, learned Government Pleader submits that the Election Order of 2025 prescribes for equal distribution of the population amongst the electoral divisions Gans / Gats, etc. yet a permissible variance of 10% + (-) is provided therein. As stated supra, there cannot be perfect equal division of population. If so, we are not able to accept the contention of the petitioners that the attachment / detachment of some villages to / from some electoral division, Gans/Gats, etc. has resulted into such grave illegality that the entire ward formation process is liable to be set aside.

vii] A profitable reference can be made to a Judgment rendered by the Co-ordinate Bench of this Court at Aurangabad in the case

of Prashant s/o Subhash Desarda Vrs. The State of Maharashtra and others in Writ Petition No.3010/2015 and other connected matters, decided on 23/03/2015, wherein it is observed that ‘some here and there in the ward formation process to the local bodies is also possible on account of difficulty in dividing the wards in equal proportion of population, the physical boundaries of the wards, villages and the area of village, ward, electoral division, and the population residing therein (emph).

viii] We find it difficult to concede the petitioners’ contentions that the parameters laid down in the Election Order of 2025 are not adhered to by the authorities. The said Election Order prescribes the procedure for ward formation. The record shows that the procedure was followed by the designated authorities. As held above, certain exceptions to the given parameters fall under the permissible limit, as prescribed by the same Election Order. The authority of the respondent No.2 – Divisional Commissioner, Amravati to take decision on the objections raised by the objectors has been conferred upon him for the Election Order of 2025. This objection of the petitioners predominantly objects as observed above, to attachment and detachment of certain villages to other Gans and Gats excepting the last ward formation.

ix] Learned Advocate Shri Ghare for the Petitioners strenuously urged to convince that the respondent No.2 – Divisional Commissioner, Amravati could not have interfered into the remarks recorded by the District Collector, we hold the same difficult to accept. It is for the obvious reason that under the Election Orders of 2025, the District Collector is authorized merely to publish the draft formation as suggested by the prescribed committee to invite objections and suggestions thereon put his/her remark to the respondent No.2 – Divisional Commissioner for appropriate decision.

x] The respondent No.2 – Divisional Commissioner, Amravati is the only Competent Designated Authority to take decision on the objections, suggestions and remarks received thereon. It cannot be accepted that the remark given by the District Collector is binding upon the Divisional Commissioner. It is quite obvious that every ward formation is an outcome of acceptance of certain objections & suggestions as well as rejection of certain objections & suggestions. Petitioners' contention that possibility of allotment of such reservation to the re-formed electoral divisions, Gans and Gats that would deprive them of contesting the ensuing elections, cannot be a good ground to upset the ongoing election process.

xi] Now, while dealing with Petitioners' objection apprehending the difficulty to the voters to attend the polling booths is concerned, we take on record the assurance advanced by the learned Government Pleader that every arrangement of polling booths shall be made to the voters at their convenience in every village. The learned Government Pleader further submitted that the authorities are cautious about the convenience of the voters to participate in the democratic process of elections and they would not face any difficulty, nor would they miss an opportunity to cast their votes merely on the count of unavailability of polling booths or difficulty in reaching to the polling booths. We trust the assurance and direct the State Authorities to ensure that no voter would be deprived of casting his vote merely on account of unavailability of polling booth.

xii] It would not be out of place to mention that intervention applications filed by some interveners are taken on record and looking to the body of intervention application, their respective interests and arguments are thoroughly covered vide the arguments of the learned counsel for the petitioners and learned Government Pleader for the State of Maharashtra, respectively.

xiii] We also take on record that to counter the response of the learned Government Pleader on the point of premature petition, Shri A.M.Ghare, learned counsel for the petitioner Nos.1 to 8 relied upon the Judgment rendered by the Co-ordinate Bench of this Court in the case of Hanif Musa Kazi Vrs. State of Maharashtra and others, reported in 2023 (3) Mh.L.J. 84. He submits that as has been held in the case of Hanif Musa Kazi (supra), the act of publishing the ward formation in the Official Gazette is merely a ministerial act and would not disqualify the writ petition on the point of premature stage. Para No.14 of the said Judgment is reproduced as under :-

“14. Perusal of the Judgment in Jagannath Vs. State (supra) shows that issue of 'ministerial act of notification in official gazette by State' was directly an issue and section 16(1)(1C)(a) and (b) and section 44 of the said Act, were directly under consideration. Para 12 thereof reads thus :-

"12. The provisions of Section 16(1)(1C)(a) of the Act of 1965 start with a non-obstante clause. The aforesaid provision provides that notwithstanding anything contained in sub-section (1B) of section 16(1), a Councillor shall be disqualified for being a Councillor consequent upon the Caste Certificate Verification Committee or any other competent authority declaring the caste certificate of such Councillor to be invalid and cancelling the same on the ground that it was based on a false claim or declaration. The provision stipulates that thereupon the Councillor shall be deemed to have vacated his office on and from the date of declaration of such certificate to be invalid and cancellation of the same by the said Committee or the competent authority. The provision

further stipulates that the office of the Councillor would be automatically vacated on the invalidation and cancellation of the caste certificate of the Councillor concerned. Sub-clause (b) of Section 16 (1)(1C) of the Act of 1965 then stipulates that on any person having been disqualified for being a Councillor and consequently his seat having become vacant under clause (a), the State Government shall, by notification in the official gazette, disqualify such person for being a Councillor or being elected as a Councillor for a period of six years from the date of such order. A reading of clauses (a) and (b) of Section 16(1) (1C) makes it clear that there is no discretion vested in the State Government to issue or not to issue a notification in the official gazette disqualifying such Councillor or person for being a Councillor or being elected as a Councillor for a period of six years from the date of such order. The act of issuance of a notification in the official gazette by the Government under the provisions of Section 16(1)(1C)(b) of the Act of 1965 is merely a ministerial act and it could not be said that the Councillor was not disqualified for being elected for a period of six years merely because the State Government had failed to perform the ministerial act of issuing a notification in the official gazette, disqualifying such Councillor. Thus, a combined reading of sub-clauses (a) and (b) of Section 16 (1)(1C) of the Act of 1965 leaves no doubt that a Councillor would be disqualified for being a Councillor and for being elected as a Councillor for a period of six years after the order is passed by the Caste Certificate Verification Committee or any other competent authority declaring the caste certificate of the Councillor to be invalid. No sooner the Caste Certificate Verification Committee or any other competent authority passes an order cancelling the caste certificate of the Councillor than the Councillor is deemed to have vacated his office and is further disqualified for being a Councillor or being elected as a Councillor for a period of six years from the date of such order. The 2nd Ad hoc Additional District Judge was, therefore, not justified in holding that the respondent No.5 could not have been held to be disqualified for being a Councillor or for being elected as a Councillor for a period of six years, in the absence of issuance of a notification by the Government in the official gazette under the provisions of Section 16(1)(1C)(b) of the Act of 1965."

May it be, as stated supra, we have dealt the petition on its merit itself and hence, there is no occasion to deal with on maintainability issue of the writ petition as to whether it is a premature or not. The issue remains open.

xiv] Now, this tempts us to refer two decisions rendered by the Co-ordinate Bench of this Court.

In the case of **Jadhav Shankar Dyandeo and another Vs. Collector, Satara and another**, reported in **2010(6) Mh.L.J. 109**, it has been held that what is mandatory is giving an opportunity to raise objection in the ward formation / delimitation process. Except objection alleging denial of opportunity to raise objection during the ward formation process, no other ground could be raised in writ petition against the ward formation process. In the case in hand, the petitioners were given an opportunity to raise objection. The objections were dealt on its own merit and thereafter, the Petitioners are before this Court. Para No.12 of the said Judgment is reproduced as under :-

“12. The plain reading of the above referred observations made by the Apex Court would show that if provisions of Articles 243-C, 243-K and 243-O are read together the delimitation of Panchayat area or the formation of the constituencies in the said areas and allotments of seats to the constituencies could be challenged nor the Court can entertain such challenge except on the ground that before delimitation, no

objections were invited and no hearing was given, even though this challenge also could not be entertained after the notification for holding the election is issued. The law declared by the Apex Court is loud and clear and prohibits Courts to entertain challenge in view of Articles 243-C, 243-K read with 243-O in respect of the above aspects, and therefore the challenge raised by the petitioners pertaining to delimitation of Panchayat area or that of formation of constituency in the said area as well as allotment of seat to such constituencies cannot be entertained by this Court since the objections were invited, petitioners have raised objections, hearing was given to them and it is only thereafter the objections were rejected by the Collector Satara by passing impugned order. The contentions canvassed by the petitioners based on Rule 2 (5) of BVP Rules, 1966 as well as Section 4 of MLR Code as well as Section 2(4) of the BVP Act in view of Article 243-C, Article 243-K and 243-O coupled with the law declared by the Apex Court in State of Uttar Pradesh (cited supra) is devoid of substance.”

xv] In another case of Anil Ramchandra Chondhe Vs. State of Maharashtra and others, reported in 2021 SCC OnLine Bom 2249, the Co-ordinate Bench of this Court at Bombay relying upon Judgment in the case of Anugrah Narain Singh and another Vrs. State of U. P. and others, reported in (1996) 6 SCC 303 has held that a statutory remedy under concerned Local Body Act takes care of every objection of the aggrieved party. Para No.17 of Anil Ramchandra Chondhe (supra) is reproduced as under :-

“17. In the instant case, the Tahsildar had given an opportunity to all concerned, including the Petitioner to file his objections and suggestions with regard to the formation of wards and reservation of seats between 7th February, 2020 to 14th February, 2020. However, admittedly the Petitioner chose not to file any objections or suggestions within the time prescribed. If the Petitioner would have filed his objections/suggestions between 7th

February, 2020 and 14th February, 2020, the SDO would have enquired into the same, given a hearing to the Petitioner and submitted his report to the Collector. It is only after the SDO submitted his Report to the Collector and after a final notification was issued in November 2020, that the Petitioner woke up from his slumber and has attempted to impugn the delimitation/reservation/formation of wards. In view of the decision of this Court in the case of Jadhav Shankar Dyandeo (supra), which follows the decision of the Apex Court in State of Uttar Pradesh (supra), the grievance raised by the Petitioner at this late stage, i.e. when the elections are to be held on 15th January, 2021, cannot be entertained. The Apex Court in the case of Anugrah Narain Singh and another v. State of U.P held, “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.” However, it is clarified that the Petitioner can always pursue the remedy provided under Section 15 of the Maharashtra Village Panchayats Act, 1959. If the said remedy is pursued, it will be open for the parties to raise all their contentions. The above Writ Petition is accordingly dismissed.”

xvi] An objection in the ward formation process, particularly as regards to the inclusion or exclusion a certain part out of area and attachment or detachment from certain part, is a purely disputed question of facts. While dealing with writ petition under Article 226 of the Constitution of India in a challenge to the ward formation on the ground of such attachment or detachment, we are cautious that we are not sitting in an Appeal over the decision taken by the authorities designated for the election purpose. Such disputed question of facts could very well be addressed in an appropriate proceeding i.e. Election Petition.

xvii] Usually, locus of a party questioning ward formation is highly disputed unless such party establishes grave procedural defect and deprivation of an opportunity of hearing. An apprehension of loss of probable voters' section or probable benefit to another candidate due to addition of a voters' section cannot be a ground to challenge a ward formation unless such objection qualifies to the two tests (supra).

xviii] Needless to mention, in the elections to the Zilla Parishads and Panchayat Samities in the State of Maharashtra, Section 27 of the Act of 1961 provides a clear remedy to the aggrieved persons like petitioners who could raise every objection in such election petition / appeal.

xix] We are extremely cautious of the fact that the present election processes are being conducted under the orders of the Hon'ble Supreme Court in Special Leave to Appeal (C) No.19756/2021 with connected matters. We are cautious that any order or direction varying or postponing any election stages of ongoing election would not only disturb the election process, but would result into delaying the schedule of election process mandated by the Hon'ble Supreme Court. For this reason also,

none of the prayers in the writ petition can be entertained at this juncture and in the present writ petition.

xx] Resultantly, we find that the petition falls short of merit and is liable to be dismissed. Before parting, we appreciate the able assistance of learned Counsels and learned Senior Counsel for the respective parties by providing data on facts and as also the law as is prevailing in the field.

Hence, we pass the following order :-

ORDER

The writ petition stands dismissed. Rule is discharged.

No costs.

[AJIT B. KADETHANKAR, J.]

[ANIL S. KILOR, J.]