



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

WRIT PETITION NO.4667 OF 2025

(SANJAY GULABRAO SHINDE...VS..STATE OF MAH. THR. SECRETARY RURAL DEVELOPMENT
DEPARTMENT & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.M.Ghare, Advocate for Petitioner.
Shri D.V.Chauhan, Sr.Adv. & G.P. a/b. Shri D.P. Thakre, Addl. G.P. & Chaitanya
Dhruv, Advocate for Respondent Nos. 1 to 3.
Shri Amit Kukday, Advocate for Respondent No.4.

CORAM : ANIL S. KILOR AND
AJIT B. KADETHANKAR, JJ.

DATED : AUGUST 22, 2025.

1. Heard.
2. In the present matter a prayer is made for quashing and setting aside the order dated 11/08/2025 passed by the respondent No.2 whereby Ward No.1 of Pipri Meghe (Gan No.42) has been added to Salod Gat No.30 and Umri Meghe Gan No.59 and portion of Ward No.4 has been shifted to Pavnar Gat No.23 and remaining Ward No.4 is shifted from Gan No.41 to Gan No.42 of Gan Pipri Meghe and further direction is sought to retain prabhag/gat/gan position of the 2017 election in so far as Gat No.21 and Gan Nos. 41 and 42 of Pipri Meghe. The petitioner has also prayed to quash and set aside the final stage of publication of final draft of prabhag/ gat/ gan by respondent No.3 and direct the respondents to fix the same after 25/08/2025 for giving sufficient opportunity to the aggrieved citizens to approach the Court of law.

3. In the connected matter i.e. Writ Petition No.4627 of 2025 a similar issue was raised. This Court vide judgment dated 22/08/2025 dismissed the writ petition by recording following observations :

“6. ...

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 Vs. 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."

3. Since this petition is squarely covered by the above referred judgment, the findings recorded in the above referred judgment are equally applicable to the case at hand.

4. In that view of the matter, we pass the following order :

The Writ Petition is **dismissed**. No order as to costs.

(AJIT B. KADETHANKAR,J)

(ANIL S.KILOR,J)