

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1296 OF 2026

Harshali Akash Solwande]
R/o. Post Takari, Tal. Walva, Dist. Sangli] .. Petitioner

Versus

1. The State Election Commission,]
Maharashtra]
2. The Election Returning Officer @]
Sub-Divisional Officer,]
Zilla Parishad & Panchayat Samities] .. Respondents

Mr. Vivek Patil with Mr. Shashank Mangle, Mr. Mayur Patil,
Mr. Afsar Ansari, Ms. Apurva Renake, Advocates, i/by Mr.
Shashank Mangle, Advocates for the Petitioner.

Mr. Sachindra B. Shetye with Mr. Akshay Pansare, Advocates for
the Respondents.

**CORAM : SHREE CHANDRASHEKHAR, CJ. &
GAUTAM A. ANKHAD, J.**

DATE : 28TH JANUARY 2026.

[THROUGH HYBRID HEARING]

P.C. :

The petitioner is aggrieved by the order dated 22nd January 2026 by which the nomination form of the petitioner for contesting the elections for the post of “Takari Panchayat Samiti Member, Scheduled Caste (Female)” has been rejected.

2. Mr. Vivek Patil, the learned counsel for the petitioner states that the petitioner intended to contest the elections for Gat/ Electorate No.73, Village Takari, Tal. Walva in the district of Sangli. She was a candidate sponsored by Shiv Sena (Eknath Shinde) Party. It is stated that the petitioner belongs to Hindu Mang caste which is in fact a Scheduled Caste. The caste certificate has been duly validated by the concerned authority and the petitioner produced the same along with her nomination form.

3. The learned counsel for the petitioner refers to Rule 19(4) of Maharashtra Zilla Parishad Panchayat Samiti (Electoral Division & Conduct of Elections) Rules, 1962 and submits that the nomination form of a candidate is not liable to be rejected except on a ground that the deficiency is of a substantial character. The learned counsel for the petitioner refers to the provisions under Rules 13 and 16 which are reproduced here-in-below and submits that non-furnishing of "Form II" along with the nomination form is not a substantial ground on which the nomination of the petitioner could have been rejected.

"13. Nomination of Candidates:-

- (1) Any person may be nominated as a candidate for election to fill a seat if he is qualified to be chosen to fill that seat under the provisions of the Act.*
- (2) Every nomination paper presented under Rule 14 shall be completed in Form II;
Provided that, a failure to complete or defect in completing, the declaration as to symbols shall not be deemed to be a defect of a substantial character within the meaning of sub-rule (4) of Rule 19.*
- (3) A nomination paper shall be supplied by the Returning Officer to any voter on demand.*

16. Symbols for election:-

- (1) The State Election Commission shall by notification in the Official Gazette specify the symbols that may be chosen by candidate at an election in any electoral division and the restrictions to which their choice shall be subject:
Provided that, the Collector may, if in his opinion it is necessary so to do, add any symbols to the list of symbols notified by the State Election Commission and he shall forthwith inform the State Election Commission of such addition.*
- (2) Where at any such election, more nomination papers than one are delivered by or on behalf of a candidate, the declarations as to symbols made in the nomination paper first delivered and no other declarations as to symbols shall be taken into consideration under Rule 22 even if that nomination paper has been rejected."*

4. The learned counsel for the petitioner further refers to page 79 of the paper-book and submits that "Form II" which pertains to

nomination of a candidate by a political party was duly published in the name of the petitioner and the said document was ignored by the Returning Officer.

5. Mr. Sachindra B. Shetye, the learned counsel for the State Election Commission refers to page no.73 which is a document signed by the Returning Officer on 21st January 2026 reflects that “Form II” which is a declaration regarding the choice of election symbols was not produced by the petitioner along with her nomination papers. “Form II” which is a prerequisite under Rule 13 and to be filled by the ‘Proposer’ is an essential document to be filed along with the nomination form. There is no provision under the Maharashtra Zilla Parishad Panchayat Samiti (Electoral Division & Conduct of Elections) Rules, 1962 for offering an opportunity to a candidate to remove this defect and to file “Form II” on a later date, particularly after the cut-off date of 21st January 2026. “Form II” declaration would obviously be a necessary document in absence of which the nomination of a candidate allegedly sponsored by a political party is liable to be rejected.

6. The submission made by the learned counsel for the petitioner as to the submission of “Form II” is contrary to the stand taken by and statements made by the petitioner in this writ petition. This also needs a mention that the arguments made by the learned counsel for the petitioner that non-submission of “Form II” shall not be a substantial reason to reject the nomination form goes to show that the document at page no.79 which is purportedly the requisite “Form II” was not submitted by the petitioner along with her nomination papers.

7. As to the maintainability of a writ petition to challenge the

rejection of a nomination form by the Returning Officer, a Full Bench of this Court referred to Article 243 of the Constitution of India in “*Karma Veer Tulshiram Autade & Ors. v. State Election Commission, Mumbai & Ors.*” 2021 SCC OnLine Bom 37 and held that filing of a writ petition is not a plea to subserve the progress of election and/or facilitate its completion, as indicated in “*Mohinder Singh Gil & Anr. v. Chief Election Commissioner, New Delhi & Ors.*” (1978) 1 SCC 405. The Full Bench held as under:-

“68. For the reasons aforesaid, while agreeing with the view in Vinod Pandurang Bharsakade (supra), we answer the fundamental question as formulated in paragraph 27 in the negative. As a sequel thereto, we answer the questions referred by the Division Bench in the manner as follows:

- (i) Allowing a challenge in a writ petition to rejection of nomination form to contest an election and granting the relief claimed by setting aside such order of rejection is definitely not a step to subserve the progress of election and/or facilitate its completion in the sense enunciated in Mohinder Singh Gill (supra) and explained in Ashok Kumar (supra) though it may not always amount to intervention, obstruction or protraction of the election;*
- (ii) Article 243-0(b) of the Constitution of India is a bar for entertaining a writ petition under Article 226 of the Constitution against an order passed by the Returning Officer rejecting nomination paper and such provision would clearly be attracted whenever a writ petition is presented before a Court for its consideration; and*
- (iii) The law laid down in Vinod Pandurang Bharsakade (supra) represents the correct view of law; consequently, we hold that the decision in. Smt. Mayaraju Ghavghave (supra) and Sudhakar s/o Vitthal Misal (supra) do not lay down the correct law.”*

8. In view of the above, Writ Petition No.1296 of 2026 is dismissed.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]