

MHAU130000142026



Elec.Petn.No.13/2026

Ahmed Jalees S/o Ashfaq Ahmed Vs. State of Maharashtra
ORDER BELOW EXH.07

Present application is made by the election petitioner under Order I Rule 10 of the Code of Civil Procedure, 1908 (for short “CPC”) for addition of parties. Read the application. Heard learned advocate for the petitioner.

02. Learned advocate for the petitioner submitted that, present petition is filed by the petitioner under section 16 of the Maharashtra Municipal Corporations Act, 1949 (for short “MMC Act”) challenging the legality and validity of entire Municipal Election. While filing present petition the full names and addresses of 115 elected councilors were not available on the website of Municipal Corporation for general public. Therefore, it was mentioned in the election petition that they will be impleaded as necessary parties after publication of their names and addresses in notification/ official gazette with the permission of Court. Now, their names and addresses are so published in the notification. Therefore, it is necessary to permit petitioner to add their names as party respondents in the petition.

03. It is seen that, according to petitioner, all candidates declared to be elected as Councilors of Municipal Corporation, Chhatrapati Sambhajinagar on 16.01.2026 by respondent No.3 Authority are necessary parties to the suit. A necessary party is one whose presence before the Court may be necessary in order to enable the Court effectually and completely to

adjudicate upon and settle all the questions involved in the suit. In the present petition, in order to find out that whether the presence of 115 elected councilors of Municipal Corporation, Chhatrapati Sambhajnagar is necessary for effectually and completely adjudicating upon all questions involved in the suit or not, it is necessary to consider the pleading in election petition.

04. It is settled position of law that, a right to elect, fundamental though it is to democracy, is anomalously enough, neither a fundamental right nor a common law right. It is pure and simple a statutory right. So is the right to be elected. So is the right to dispute an election. Outside the statute, there is no right to elect, no right to be elected and no right to dispute an election. Thus, an election petition is not an action at common law nor in equity. It is a statutory proceeding to which neither the common law nor the principles of equity apply but only those rules which the statute makes and applies. It is a special jurisdiction, and a special jurisdiction has always to be exercised in accordance with the statute creating it. In present proceeding the election petitioner has challenged the validity of election under section 16 of the Maharashtra Municipal Corporations Act, 1949 to which the provisions of Representation of the People Act, 1951 are also applicable. Therefore, this court is put in a straight jacket in dealing with this application.

05. It is the case of election petition that, “Aurangabad Municipal Corporation” was constituted and legally brought into existence exclusively under section 3 of Bombay Provincial Municipal Corporations Act, 1949. Thus, since 18.12.1982 it is having a name and common seal as “The Municipal Corporation of the City Aurangabad”. That, the Municipal Corporation election was scheduled to be held in the month of January

2026. The respondent No.3 had published Public Notice in various newspapers and invited objections and suggestions from the general public regarding “Draft Voting List” to be used in upcoming Municipal Corporation Election. He came across the same in Aurangabad Times daily Urdu newspaper dated 20.11.2025. After reading the Public Notice, he came to know that, the Municipal Corporation Elections scheduled to be held in January 2026 will be concluded in the name as “Chhatrapati Sambhajinagar Municipal Corporation”. He asserted that, in Writ Petition No.11968 of 2023, PIL No.148 of 2023 and other public interest litigation challenging renaming of Aurangabad City, the Hon’ble Bombay High Court has observed that, MMC Act do not contain any provision for naming/renaming or altering the name of Municipal Corporation. Therefore, respondent Nos.1 to 3 have no authority to change the name of Municipal Corporation from its earlier name i.e. Aurangabad Municipal Corporation to “Chhatrapati Sambhajinagar Municipal Corporation” while preparing voters list and conducting election.

06. Based upon aforesaid assertions the election petitioner has prayed to declare the general election of Chhatrapati Sambhajinagar Municipal, Corporation 2025-2026 to be null and void. He also prayed in the petition to direct respondent Nos.2 and 3 Authorities to republish draft voter list, final voter list in the name of “Municipal Corporation Aurangabad” and to conduct elections in the name of Municipal Corporation Aurangabad.

07. It is pertinent to note that, an election petition has a definite role in the law relating to election of representatives of the people. An election petition is intended to bring into focus any illegality attached to an election. It essentially and basically puts a question mark on the purity of

election, casts doubt on the fairness thereof and seeks a declaration that, the mandate of people has been obtained by questionable means. In a democracy the mandate has sacrosanctity. It is to be respected and not lightly interfered with. When it is contended that, the purity of electoral process has been polluted, weighty reasons must be shown and established. However, the petitioner has not pleaded that how the renaming of Municipal Corporation has materially affected the result of election declared on 16.01.2026 by the respondents authorities. In such circumstances, the elected councilors of Municipal Corporation, Chhatrapati Sambhajnagar are not necessary party to the petition. Moreover, a question conceived in the mind of this court after reading election petition that whether the pleading made by petitioner in the petition falls in one or more of the categories laid down in Order VI Rule 16 of the Code of Civil Procedure, 1908 (CPC) which provides for striking out pleadings and, if such pleading is struck out, whether the petition does not disclose a cause of action inviting its rejection under Order VII Rule 11 of CPC. However, these questions cannot be decided by this Court without hearing petitioner. Therefore, after rejecting this application it is necessary to post the petition for hearing petitioner on these points. Hence, I pass the following order:-

ORDER

1. Application stands rejected.
2. The Election Petition be posted for argument by petitioner on the point of striking out pleadings in election petition under Order VI Rule 16 of CPC and its rejection under Order VII Rule 11 of CPC.

Date :- 20.03.2026

(Shri. N. H. Tikhe)
Civil Judge Senior Division
(Corporation Court), Aurangabad.

CERTIFICATE

I affirm that the contents of this P.D.F. file Order are same, word to word, as per the original Order.

Name of the Stenographer	: Vilas K. Chavan, Stenographer (Grade-II)
Court	: C.J.S.D.(Corporation Court), Aurangabad.
Date	: 20.03.2026
Order signed by the presiding officer on	: 20.03.2026
Order uploaded on	: 20.03.2026