

Election Petition No. 06/ 2026

IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE,
KOLHAPUR DISTRICT, KOLHAPUR

AT KOLHAPUR

Order
R & R

IN THE MATTER OF:

D.J.2
28/04/2026

SUNIL HINDURAO CHOUGULE

...PETITIONER

Versus

ARUN MARUTI JADHAV & ORS.

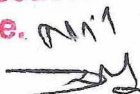
...RESPONDENTS

Reply on behalf of the Respondent
No.1 to the Application for
amendment of pleadings under
Rule 17 of Order VI r/w Section
151 of the Code of Civil Procedure,
1908

MOST RESPECTFULLY SHEWETH:

1. At the outset and with greatest respect it is submitted that the Application under Order VI Rule 17 of Code of Civil Procedure, 1908 (hereinafter referred to as "CPC") seeking amendment of pleadings is nothing but an attempt to cure the incurable inherent defect and therefore the said application is not maintainable. The election contest is neither an action at law nor suit in equity, but are purely statutory proceedings unknown to common law and this Hon'ble Court does not have jurisdiction to exercise the inherent

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powers under Section 151 of the CPC including power under Order VI Rule 17 of the CPC. Therefore, the instant application under reply is liable to be dismissed as this Hon'ble Court lacks the jurisdiction to cure the inherent defects in the election petition.

2. That not only the Application under reply but the election petition itself is an abuse of process of law. The proceeding initiated by the Applicant herein are vexatious, malicious, fraudulent and the legislative intent behind the provisions of Order VI Rule 17 r/w Section 151 of the CPC is to aid the administration of justice and not help the indolent and negligent litigant. It is submitted that it is not a case of the Applicant that he was unaware of the names and particulars of the contesting candidate at the election and therefore, the Application under reply is liable to be dismissed for want of diligence alone.
3. The perusal of the Application under reply would clearly reveal that an afterthought, *malafide* attempt is made by the Applicant herein to mislead this Hon'ble Court by making patently false, incorrect and misleading statements on oath in the Application and therefore, it is submitted that the present Application is liable to be dismissed. There it is a classic case of making factually incorrect and false statement on oath which amounts to not only the perjury but an

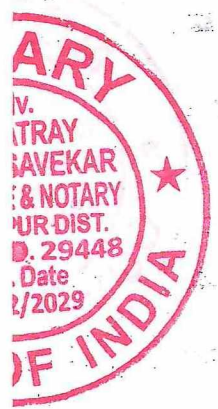


attempt to overreach the majesty of the court and therefore the Applicant is liable for suitable action for contemptuous conduct.

4. That petitioner has not approached this Hon'ble Court with clean hands and have made incorrect assertions, casting aspersions on the statutory authorities just to obtain a relief of an amendment of pleadings to which otherwise, the Applicant is not entitled to. The information about the contesting candidate was available to the Applicant herein as early as on 22.01.2026 i.e., date of scrutiny, when the list of all eligible candidates was made available to the public at large by the Returning Officer. Thus, the Application under reply is based on incorrect, misleading and false averments and therefore same is liable for making false statements and scurrilous allegations against the statutory authorities.

5. The reason for amendment is stated in Paragraph 2 of the amendment application only. The reasons stated in Paragraph 2 are not only vague, but such reasons are apparently false. That in terms of Rule 23 of The Maharashtra Zilla Parishads (Electoral Divisions and Conduct of Election) Rule, 1962 [hereinafter referred as "Rules"], the list of all eligible contesting candidates was made available to the Public on 22.01.2026.

6. That the notice of nomination and place of scrutiny as provided under Rule 18 of Rules, the date of scrutiny as provided under Rule



19 of the Rules, was well within the knowledge of the Applicant herein and therefore his failure to avail the remedy of an appeal under Rule 20 the Rules, does not entitle him to make any unsubstantiated allegations against the Respondent No.2 and 3. It is relevant to mention here that the Application filed by the Applicant herein does not disclose the following material facts:

- a. When did he approach the Returning Officer seeking information regarding the proposed Respondent No.4,5 and 6?
 - b. What was the mode of Applicant to seek an information from the Returning Officer?
 - c. What are the documents he sought from the Returning Officer?
 - d. When was such an information was provided by the Returning Officer to the Applicant herein?
 - e. What was the mode by which the Returning Officer, furnished the information to the Applicant?
7. The details of contesting candidates are available to the Petitioner from the date of scrutiny of applications i.e., 22.01.2026 and also on the date of declaration of result of the election in question i.e., on 09.02.2026, therefore it is inconceivable and impossible to suggest that the names of other contesting candidates were not available to the Petitioner till the Petitioner moved the Application under reply.



8. The amendment in election petition is permissible under Section 27 (4) (b) of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (hereinafter referred to as "Act") and for the sake of convenience the said sub section is reproduced here below:

"27. Determination of validity of elections; enquiry by Judge:

Procedure.—

(1).....

(2).....

(3).....

(4) *Notwithstanding anything contained in the Code of Civil Procedure, 1908 (V of 1908), the Judge shall not permit*

(a) *any application to be compromised or withdrawn,*

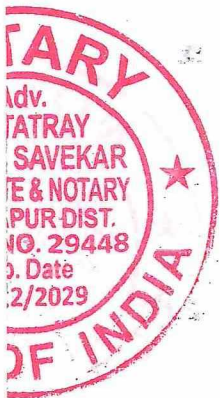
or

(b) *any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or application for such alteration or amendment is bona fide, and not collusive."*

9. It is submitted that Section 27 (4) (b) of the Act begins with non-obstante clause i.e., "*notwithstanding*" and it is obvious that the application for amendment is wholly incompetent and not maintainable under Order VI Rule 17 of the CPC as there is a specific provision permitting amendment in the special statute and

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in view of the provision of special statute, the general rule of amendment under Order VI Rule 17 of CPC is not applicable and not maintainable.

10. The amendment application is belated as per Rule 20 of the Rules, the objection as to acceptance of nomination has to be taken within 3 days of the date of acceptance of nomination and it is not a case of the Petitioner that the petitioner came to know about alleged prosecution of the respondent at a later point of time.

11. The defect of *non-joinder* of parties to the election petition is fatal and same can not be cured by moving an application under Order VI Rule 17 of the CPC. The Application under reply seeks to introduce new material facts which were within the knowledge of the Applicant herein and present Application cannot be allowed to cure the defect of *non-joinder* of parties after the expiry of period of limitation for filing election petition.

12. The conduct of the Applicant does not demonstrate due diligence and therefore amendment as prayed for in the present Application, is not capable of being granted by this Hon'ble Court. It was obligatory upon the applicant to give requisite facts, details, particulars in the election petition with exactitude and the Applicant has miserably failed to disclose the material facts and as a consequence thereof the election petition itself is liable to be dismissed for *non-joinder* of parties.



13. In the election petition, the applicant has not given correct material particulars and in the present Application, he has not assigned any reason for omission of the contesting candidates from impleading as a party to the Petition which is a mandatory pre-condition for filing of Election Petition within stipulated period of limitation and consequence of such a omission is outright dismissal of election petition and this Hon'ble Court may not exercise the discretionary jurisdiction under Order VI Rule 17 r/w Section 151 of the CPC to cure the incurable inherent defect in the election petition.

14. When non-joinder of parties to the election Petition results into dismissal of election petition, this Hon'ble Court may not allow the Applicant to amend the pleadings as the power under Order VI Rule 17 and Order I Rule 10 of CPC does not permit the court to exercise the discretionary power to revive the time barred Petition. The net effect of non-joinder of necessary party entails the dismissal of election petition, then the provisions under Code of Civil Procedure, 1908 cannot be used to as a curative means to save the Petition.

15. The procedure applicable to election petition is altogether different from the ordinary civil suit, as election petitions stands on different footing. It is submitted that every nominated candidate for an election including the candidates who have withdrawn their candidature after the scrutiny of nomination forms are necessary party for the purpose of election petition. Therefore, it is submitted

that all the contesting candidates are required to be made party to the election petition and failure to implead them to the election petition amounts to non-joinder of necessary party. Hence, the consequence of non-joinder of party warrants dismissal of the election petition, therefore the prayer made in the Application under reply is liable to be rejected.

16. The perusal of the unamended election petition and Application under reply would clearly demonstrate that the amendment sought by the Applicant is not in relation with better particulars, but it is in relation to material facts aimed at circumventing the rigours of mandatory compliance warranting impleadment of all contesting candidates as a party to the election petition. In the election petition when the contesting candidates are not made parties, it would entail the dismissal of Election Petition.

17. It is submitted that any amendment of pleadings allowing the impleadment of new parties to the election petition will amount to revival of defective election petition beyond the statutory period of limitation for filing election petition.

18. The right to elect or to be elected or dispute regarding election are neither fundamental right nor common law rights but are confined to the provisions of the Act and the rules made thereunder and consequently the rights and remedies are all limited to those



provided by the statutory remedies. It is further submitted that the provisions of CPC would apply to the election dispute as far as may be and subject to the provisions of the Act and any rules made thereunder and the provisions of the CPC cannot be invoked to permit something which is not permissible under the Act.

19. That statutory period for filing of the election petition has already been elapsed and any amendment of pleadings as prayed in the present application under reply would amount to entertaining the time barred election petition and thereby permitting the applicant herein to cure the inherent defect which is time barred in nature and on this count alone the Application under reply is liable to be dismissed.

20. It is submitted that the amendment of pleadings as claimed in the application is an *malafide* and after thought attempt to overcome the inherent defect in the election petition filed by the Applicant herein. It is submitted that this Hon'ble Court kindly may not entertain the present application to remove the incurable defect of non-joinder of parties.

21. The amendment of pleadings in ordinary suit may be generally permissible, however when the proceedings are statutory in nature and are an exception to ordinary civil suit, this Hon'ble Court may not kindly exercise the discretionary power which is otherwise



available in an ordinary suits and the election petition being purely statutory remedy, and there being an embargo on exercising discretionary powers beyond period of limitation, as it would amount to an exercise of jurisdiction which is not vested in this Hon'ble Court.

22. The Application under reply on the face of it appears to be false misleading and is an malafide attempt to cure the inherent defect in the Election Petition and it is a settled position of law that inherent defect in the Election Petition can not be cured by filing an Amendment Application under Order VI Rule 17 of the CPC.

23. That amendment prayed for in the Application under reply is not bonafide and is a malafide attempt to change the constitutional, fundamental nature and character of the election petition and therefore it is not permissible.

24. The amendment of pleadings cannot be granted in favour of the Applicant herein because he is not diligent and have resorted to falsehood by making false allegations against the statutory authority to cover up his inaction

25. The Application under reply as well as Election Petition does not disclose material particulars and therefore the same are not maintainable.




26. The Petitioner in election petition *inter-alia* prays for getting himself elected and in such circumstances neither in the election petition nor in the proposed amendment the petitioner disclosed the votes cast in favour of petitioner and other candidates. The requirement of Section 27 of the Act is that the application must be *bonafide* and in view of the reasons stated above by any stretch of imagination it cannot be suggested that the application under reply is *bona fide*.

27. The present application is nothing but an attempt to cure the inherent defect of *non-joinder* of necessary parties to the petition which is barred by the law of limitation as well. The averments made in the Application are vague, unsubstantiated and are general in nature and therefore there is no reason to grant the amendment of the pleadings. It is submitted that the present reply is confined to the averments made in the present Application and the answering Respondent herein reserves his right and liberty to file the detailed Written Statement.

PRAYER

28. Therefore in the facts and circumstances of the case and in view of the submissions made above, it is humbly prayed that-

- a. The present application under reply may kindly be dismissed with exemplary costs. And/or;
- b. May grant any other appropriate reliefs which this Hon'ble Court may deem fit and proper.


Respondent No.1


Place: KOLHAPUR

Date: __.04.2026

VERIFICATION

I, Respondent No.1, ARUN MARUTI JADHAV, age: 59 yearsm
Occp. Agriculture and Social Service, R/ of At Post Talashi, Taluka
Radhanagari, District Kolhapur, do hereby solemnly affirm and verify that
the contentions and reasons in para 01 to 27 as well as the relief claimed
in para 28 (a) to 28 (b), all are true & correct with the best of my
knowledge and belief, hence the Verification today at Kolhapur.


Date: __/04/2026


Respondent No.1


AFFIDAVIT

I, Respondent No.1, ARUN MARUTI JADHAV, age: 59 yearsm
Occp. Agriculture and Social Service, R/ of At Post Talashi, Taluka
Radhanagari, District Kolhapur, do hereby solemnly states on oath of God
that the contentions and reasons in para 01 to 27 as well as the relief
claimed in para 28 (a) to 28 (b), all are true & correct with the best of my
knowledge and belief, hence the Affidavit today at Kolhapur.

Date: __/04/2026


Affiant

I know the Affiant

Advocate 

Adv. S.S. Sanlekar

VERIFICATION

I, Respondent No.1, ARUN MARUTI JADHAV, age: 59 yearsm
Occp. Agriculture and Social Service, R/ of At Post Talashi, Taluka

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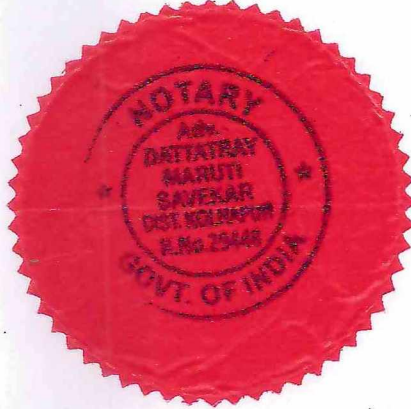


Radhanagari, District Kolhapur, do hereby solemnly states on oath of God that the contentions and reasons in para 01 to 27 as well as the relief claimed in para 28 (a) to 28 (b), all are true & correct with the best of my knowledge and belief, hence the Verification today at Kolhapur.

Date: __/04/2026



Respondent No.1



SOLEMNLY affirmed before me

by Shri. Arun Maruti Jadhav
P.O. Belavale Tal. Radhanagari

Who is identified before me

by Adv. S.S. Samkpal

Whom I personally know

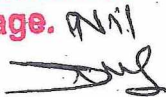
This 28 day of 4/2026



DATTATRAY MARUTI SAVEKAR
Advocate & Notary

At. Post. Belavale Bk., Tal. Kagal,
Dist. Kolhapur. Mob.9975240861

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Notary Regl. Sr. No. 47/2026

Date 28/4/2026