



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

WRIT PETITION NO.4467 OF 2026

VIPLOVE GOPIKISHAN BAJORIYA

VERSUS

THE COLLECTOR, AMRAVATI AND RETURNING OFFICER FOR THE
ELECTION OF LEGISLATIVE COUNCIL, MAHARASHTRA AND OTHERS

<i>Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders</i>	<i>Court's or Judge's orders</i>
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Dr. R.S. Sirpurkar, Advocate for Petitioner.
Mr. D.V. Chavan, Government Pleader, Thr. V.C. a/w
Mr. N.S. Rao, AGP for Respondent No.1-State.
Mr. R.M. Mardikar, Advocate for Caveator/Respondent No.3.
Mr. M.G. Bhangde, Senior Advocate i/b Mr. R.M. Bhangde,
Advocate for Caveator/Respondent No.4.
Mr. A.S. Manohar, Advocate for Caveator/Respondent No.5.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 03rd JUNE 2026

1. Heard learned Advocate for the petitioner as well as learned Advocates for the respondents.
2. Issue notice to the respondents, returnable on 17th June 2026.
3. Mr. D.V. Chavan, learned Government Pleader waives service of notice on behalf of respondent No.1-State. Advocate Mr. R.M. Mardikar, appears on caveat and waives service of notice on behalf of respondent No.3. Advocate Mr. R.M. Bhangde, appears on caveat and waives service of notice on behalf of respondent No.4 and Advocate Mr. A.S. Manohar, appears on caveat and waives service of notice on behalf of respondent No.5.

4. The petitioner is permitted to serve the remaining respondents by private mode, in addition to regular mode of service and file affidavit of service in that regard by next date.

5. Heard Dr. R.S. Sirpurkar, learned Advocate for the petitioner as well as Mr. D.V. Chavan, learned Government Pleader for respondent No.1-State, Mr. M.G. Bhangde, learned Senior Advocate for respondent No.4 and Mr. A.S. Manohar, learned Advocate for respondent No.5.

6. By pointing out the urgency of the matter, the petition was mentioned and accordingly, it is taken up for hearing.

7. By way of instant petition, the petitioner has challenged an order dated 02.06.2026, passed by respondent No.1 the Collector, Amravati and Returning Officer for the Election of Legislative Council, Maharashtra, by which the nomination form of the petitioner as a candidate for the Maharashtra Legislative Council Elections 2026 is rejected.

8. Learned Advocate for the petitioner has advanced elaborate arguments and has pressed for an interim relief for directions to the respondent No.1 Returning Officer to accept the nomination form of the petitioner and to allow the petitioner to participate in the elections.

9. The contentions canvassed on behalf of the petitioner are briefly stated below :

i) Learned Advocate for the petitioner submitted that the rejection of nomination form of the petitioner by respondent No.1

Returning Officer is without there being any defect of substantial character and the impugned order is passed by ignoring the purport of provisions of sub-section 4 of section 36 of the Representation of the People Act, 1951.

ii) She submitted that the petitioner has submitted Form 26 mentioning all the necessary details on affidavit, of which the Annexures from A to A-9 and B-1 to B-6 were part and as such, the requisite details were furnished on affidavit with complete disclosure. In view of this, the Returning Officer had even issued a check list dated 01.06.2026, which does not show any defect in the submission of Form 26 and the petitioner was never called upon by the Returning Officer to cure any defect.

iii) She submitted that the Returning Officer had checked the Form 26 and signed the check list in accordance with the instructions dated 06.03.2024, issued by Principal Secretary addressed to the Chief Electoral Officers of All States and Union Territories in the nature of guidelines to the Returning Officers and therefore, in accordance with Clause 4(e) of the said instructions, the Returning Officer was required to grant an opportunity to the petitioner to remove the defects by asking the candidate to file fresh affidavit rectifying the defects. She submitted that the Returning Officer, although issued a check list, has not called upon the petitioner to remove the defects and in this backdrop, the impugned order rejecting the nomination form for non compliance with Rule 4A of the Conduct of Elections Rules, 1961 is unsustainable in law.

iv) She submitted that Form 26 submitted by the petitioner along with the nomination form was running in total 27 pages including the Annexures and this complete document ought to have

been considered by the Returning Officer, which was on duly notarized affidavit. She submitted that the petitioner has specifically mentioned all the details of movable assets as per Note (1) to Note (6), in accordance with Clause 7 of Form 26 by making reference to the Annexures and therefore, the Annexures had to be considered as a part of the entire affidavit.

v) By relying upon judgment of the Division Bench of this Court in the case of ***Aashish Kishor Gadkari Vs. The Election Commission of India and Another, Decided on November 6, 2024 in Writ Petition (L) No.33675 of 2024***, she submitted that the position of law is clarified that the Writ Courts are not denuded of any jurisdiction under Article 226 during the election process and even when the election process is on, interference is warranted, if situation demands.

vi) In support of her submissions, she also placed reliance on judgment of the Co-ordinate Bench of this Court in the case of ***Priyanka Yogesh Gavhane Vs. State of Maharashtra and Others, [2025 SCC Online Bom 4898] with connected matter*** and submitted that since the indulgence by this Court at this stage would not anyway obstruct the election process, the interference with the impugned order is warranted.

10. Per contra, Mr. D.V. Chavan, learned Government Pleader for respondent No.1-State vehemently opposed the petition. His submission are briefly stated below.

i) The instant petition is not maintainable on account of availability of alternate remedy to the petitioner to file an election petition under the provisions of relevant laws.

ii) He submitted that the impugned order passed by respondent No.1 Returning Officer is well reasoned, warranting no interference by this Court at this stage of election. In view of the settled position of law that interference by Writ Court with the election process has to be avoided and since the petitioner has failed to demonstrate any exceptional and compelling case warranting interference, the petition deserves to be dismissed. He submitted that indulgence by this Court will not sub-serve the election process and hence, the petition be dismissed.

iii) He submitted that Form 26 submitted by the petitioner along with the nomination form does not disclose the information on affidavit as required by the Conduct of Elections Rules, 1961 and whether such submission of information through the Annexures is permissible or not is a debatable issue. He submitted that the Returning Officer has rightly passed the impugned order by considering the settled legal position that when a statute requires a thing to be done in a particular manner, it must be done in that way or not at all and since the petitioner failed to furnish the information in the requisite format, the nomination form of the petitioner is rightly rejected.

iv) By relying upon judgment of the Hon'ble Supreme Court in the case of ***Resurgence India Vs. Election Commission of India and Another, [(2014) 14 SCC 189]***, he submitted that the requirement to furnish the details by a candidate is very vital for giving effect to the "right to know" of the citizens and the failure on the part of a candidate to submit the entire information in accordance with the requisite form i.e. Form 26 makes the nomination form defective which deserves rejection. He also submitted that the position of law is

settled that unless interference by this Court sub-serves the election process, the same is unwarranted.

v) He submitted that the election process has already begun as the scrutiny of the nomination forms was completed on 02.06.2026 and the further stage of election is withdrawal of nomination forms scheduled on 04.06.2026 and since the election process is going on, interference by this Court is not warranted under writ jurisdiction.

11. While opposing the arguments on interim relief, Mr. M.G. Bhangde, learned Senior Advocate for respondent No.4 submitted that issuing a check list by the Returning Officer cannot be considered to be the decision about scrutiny of the nomination forms. He submitted that the requirement of issuing a check list by the Returning Officer as mentioned in the executive instructions *vide* communication dated 06.03.2024, cannot be considered to be a statutory provision and therefore, the petitioner's contentions about lack of opportunity to cure the defects are devoid of substance. He submitted that in accordance with sub-section 3 of section 33-A of the Representation of the People Act, 1961, the Returning Officer is required to display the information submitted by the candidates at a conspicuous place by affixing a copy of affidavit and in the instant case, the information which was displayed on the notice board contained the affidavit of the petitioner from page No.1 to page No.11 only and as such, the Annexures referred to by the petitioner cannot be considered to be a part of the affidavit which is mandatorily required to be submitted. He submitted that there is no verification at the end of the Annexures (at page 27 of Form 26) and the affidavit is completed at page No.11 of Form 26, which contains the verification by the petitioner. He, therefore, submitted that the Returning Officer has rightly inferred

that the petitioner has failed to submit all the necessary details in Form 26, which is a mandatory requirement for submitting the nomination form. He also submitted that the position of law is well settled that the interference in the election process is not warranted in routine manner and in the instant case, the petitioner having failed to demonstrate as to how the acceptance of nomination form will sub-serve the election process, the petition deserves to be dismissed.

12. Mr. A.S. Manohar, learned Advocate for respondent No.5 also opposed the petition and accepted the submissions on behalf of the other respondents. He additionally submitted that mere issuance of a check list by the Returning Officer does not take away the powers of the Returning Officer to decide the objections raised by the candidates. As such, he submitted that although the Returning Officer has issued the check list on 01.06.2026, the objections raised by other candidates on 02.06.2026 were required to be independently decided by the Returning Officer which is rightly done by the impugned order.

13. In the backdrop of these submissions, rival contentions fall for my consideration.

14. The contentions raised by the petitioner for grant of interim relief are being considered by this order. The nomination form of the petitioner is rejected by the Returning Officer by observing that the necessary information is not disclosed in Form 26 and certain details are mentioned in the Annexures submitted along with the affidavit. The Returning Officer has observed that the issue as to whether the submission of information through the Annexures without mentioning all the details in requisite format is a debatable issue. It has been observed that the petitioner has failed to submit all

the information by stating it in the columns of Form 26 and thus, the petitioner has failed to comply with the mandatory procedure of law. In this regard, it has to be noted that Form 26, as per Rule 4-A of the Conduct of Elections Rules, 1961, provides the format of affidavit to be furnished by the candidates, which does not require the candidates to submit any Annexures. As such, submission of information through the Annexures cannot be considered to be in accordance with the statutory requirement of Rule 4-A of the Conduct of Elections Rules, 1961 and hence, the reasoning recorded by respondent No.1 Returning Officer do not appear to be perverse.

15. The contention canvassed on behalf of the petitioner that the Returning Officer failed to afford any opportunity to the petitioner to cure the defects is based on a reference to this requirement as contained in Clause 4(e) of the communication dated 06.03.2024, issued by Principal Secretary to the Chief Electoral Officers of All States and Union Territories. Pertinent to note, this requirement is mentioned in the letter containing instructions by the Principal Secretary. The petitioner has failed to point out any statutory provision or any judgment either of the Hon'ble Supreme Court or the Hon'ble High Court mandating issuance of a check list and grant of opportunity to the candidate to cure the defects. The communication dated 06.03.2024 containing such an instruction cannot be said to have any statutory effect. The signature of the Returning Officer on the check list does not amount to scrutiny of nomination form and hence, the petitioner's contention in this regard are not acceptable.

16. As regards the objections raised by the learned Government Pleader to the maintainability of the petition, learned Advocate for the petitioner has submitted that in the democratic

process, the petitioner is entitled to participate and contest the election and an opportunity to contest the election would rather sub-serve the election process. In this regard, it has to be noted that the position of law is settled that the interference of Writ Court could be warranted only when it sub-serves and facilitates the process of election. However, there is nothing to show that acceptance of petitioner's nomination form would sub-serve the process of election.

17. As regards the contentions of respondent No.4 about display of information in accordance with sub-section 3 of section 33-A of the Representation of the People Act, 1961, the petitioner has disputed the contentions that only page Nos.1 to 11 were displayed and therefore, whether only page Nos.1 to 11 were displayed or entire form with Annexures upto page No.27 were displayed, is a disputed question of fact.

18. Further, on perusal of Form 26 (Annexure 2), it appears that the affidavit is complete at page No.11, on which there is verification with signature of Deponent. Crucial to note, there is no verification at the end of page No.27, where the Annexures are completed. So also, the veracity of unsigned endorsement at the bottom of page No.11, certifying the affidavit containing page Nos.1 to 11, along with page Nos.12 to 27, is also a disputed question of fact. In view of these aspects, the inference recorded by the Returning Officer that the Annexures are not part of Form 26 does not appear to be palpably wrong.

19. In view of the overall facts of the instant case and considering the stage of election process, in my opinion, any direction about the acceptance of nomination form of the petitioner would not

be a step to sub-serve and facilitate the process of ongoing election. Hence, by considering the settled position of law, which is even reiterated in the judgment of **Aashish Gadkari (Supra) and Priyanka Gavhane (Supra)**, relied upon by the learned Advocate for the petitioner, I do not find this to be a fit case in which this Court should interfere by issuing any interim direction. Hence, the prayer for interim relief is rejected.

20. List the petition for further consideration on 17th June 2026.

(PRAFULLA S. KHUBALKAR, J.)

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