

KESHAV

v.

SHIVAJIRAO & ORS.  
(Civil Appeal No. 1178 of 2009)

FEBRUARY 24, 2009

**[DR. ARIJIT PASAYAT AND ASOK KUMAR  
GANGULY, JJ.]**

*Constitution of India, 1950 – Article 226 – Writ petition – Issue as regard of validity of nomination form – Direction by High Court that name of appellant be deleted from voters list as election programme not declared yet – Case of appellant that election programme was published before order of High Court – Respondent's case that appellant's enrollment was after cut off date – On appeal held: Appellant's nomination form to be scrutinized – As regard determination of validity of the nomination form, the available statutory remedy to be availed – Order of High Court set aside.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1178 of 2009.

From the final Judgment and Order dated 20.02.09 of the High Court of Bombay at Aurangabad in W.P. No. 74 of 2009.

From the final Judgment and Order dated 20.2.09 of the High Court of Bombay at Aurangabad in W.P. No. 74 of 2009.

U.U. Lalit, Sudhanshu, S. Choudhari, Laxmikanth Patel and Arundhati Sukhntar for the Appellant.

Uday B. Dube, Kuldip Singh, Chinmoy S. Khaladkar and Chandan Ramamurthi for the Respondents.

The Judgment of the Court was delivered by

A **DR. ARIJIT PASAYAT, J.** 1. Taken on Board.

2. Heard Learned counsel for the parties.

3. Leave granted.

B 4. Challenge in this appeal is to the order passed by a learned Single Judge of the Bombay High Court Aurangabad Bench. By the impugned order, the High Court directed that the present appellant's name be deleted from the voters list. The High Court entertained the writ petition primarily on the ground  
C that the election programme was not declared yet.

5. Learned counsel for the appellant submitted that the election programme was published on 17<sup>th</sup> February, 2009. It appears from the order of the High Court that the matter was reserved for orders on 11.2.2009 and the judgment was  
D delivered on 20.2.2009.

6. From the details of the election programme it appears that the last date for getting the nomination form is 24.2.2009 and the last date for scrutiny of the nomination form is  
E 25.2.2009 and date of the publication of the nomination form is 26.2.2009. The date of the election is 29.3.2009 and the date of counting is 30.3.2009.

7. Learned counsel for the respondent submitted that apparently the name of the appellant is not entitled to be included in the voter list because the cut-off date is 30.6.2007 and the appellant was enrolled on 14.7.2007 i.e. after the cut-off date.  
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8. Learned counsel for the appellant stated that the interpretation put by the High Court is not correct.  
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9. We need go into this question in view of the order we propose to pass. Let the petitioner's nomination form be scrutinized. It is open to the respondent to raise objection about the entertainability of the nomination paper. We make it clear  
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that we have not expressed any opinion about the validity of the nomination form or otherwise. Needless to say the objection, if any, filed by the respondent shall be considered in its proper perspective uninfluenced by any observations made by the High Court. Further, if any person has any grievance regarding the determination of validity, or otherwise of the nomination form available statutory remedy can be availed. The order of the High Court is set aside. A B

10. The appeal is disposed of accordingly.

N.J.

Appeal disposed of. C