

Landmark Judgements

<b>1. Jurisdiction Of Court</b>					
Sr. No	Court	Case No.	Petitioner	Date of Judgment	Important Quotes of Judgment
1	Supreme Court	(Civil Appellate Jurisdiction) Case No. 351 of 1951 Writ Petition No. 746/1951 (High Court Madras)	N.P. Ponnuswami V/S The Returning Officer, Namakkal Constituency	21/01/1952	"Article 329 defines "election" the entire process culminating in a candidate being declared elected." "All controversial matters and all disputes arising out of elections should be postponed till after the elections are over, so that the election proceedings may not be unduly retarded or protracted. Not to made the subject of a dispute before any Court while the election is in progress." .... Madras High Court, seven other State High Courts have held that they have no jurisdiction under Article 226 of the Constitution to entertain petitions regarding improper rejection of nomination papers.
2	Haryana High Court	AIR 1999 P H 1, (1998) 119 PLR 640 (Civil Writ Petition No.1160/1995, 1177/1995, 1185/1995, 1186/1995..)	Lal Chand V/S State Of Haryana And Ors.	28/5/1998	Article 329 of the Constitution of India is pari materia to Articles 243-O and 243-ZG; "No election to any Panchayat/Municipality shall be called in question except an election petition presented to such an authority and in such manner as is provided for by or in any law made by the Legislature of a State, but this will not oust the jurisdiction of the High Court under Articles 226/227 of the Constitution".
3	Karnataka High Court	Writ Petition No.5453-54/2000 others	S.A. Aswathanarayan a And Another V/S The Returning Officer	21/2/2000	The administration of the entire election process to the State Legislatures and Parliament is entrusted to an independent Commission constituted under Article 324 of the Constitution. Article 329 of the Constitution prohibits any and every kind of pre-election challenge including the delimitation of constituencies or post-election challenge against any step taken in connection with those elections except the

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					<p>method of challenge permitted by means of an election petition which can be filed only after the elections..</p> <p>With the introduction of Articles 243O and 243K, the distinction between an election to the Parliament or to the State Legislature on the one hand and Panchayats or Municipalities on the other has disappeared. <b>243O corresponding to Article 329 applicable to Parliamentary and Legislative Assembly Elections, bars interference by the Courts in the electoral process relating to Panchayats.</b></p>
4	Supreme Court	Original Petition No. 24516/1999 (High Court Trivendrum) SLP	Election Commission Of India V/S Ashok Kumar & Ors	30/8/2000	<p><i>To what extent Article 329 (b) has an overriding effect on Article 226 of the Constitution?</i></p> <p><b>Assistance of Court must sought for merely to correct or smoothen the progress of the election proceedings, to remove the obstacles therein, or to preserve a vital piece of evidence if the same would be lost or destroyed or rendered irretrievable by the time the results are declared and stage is set for invoking the jurisdiction of the Court.</b></p> <p>And the Court must guard against any attempt at retarding, interrupting, protracting or stalling of the election proceedings</p>
5			Gist of Few Cases		<p>Without interrupting, obstructing or delaying the progress of the election proceedings, judicial intervention is available if assistance of the court has been sought for merely to correct or smoothen the progress of the election proceedings, to remove the obstacle therein, or to preserve a vital piece of evidence if the same would be lost or destroyed or rendered irretrievable by the time the results are declared and the stage is set for invoking the jurisdiction of the court.</p>

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2. Powers of State Election Commission					
6	Supreme Court	1978 AIR 851 1978 SCR (3) 272 ,1978 SCC (1) 405	Mohinder Singh Gill & Anr. V/S CEC, New Delhi	2/12/1977	<b>Where a law is absent, the Commission is not to look to any external authority for the grant of powers to deal with the situation</b> but must exercise its power independently and see that the election process is completed in a free and fair manner. Moreover, <b>the power has to be exercised with promptitude</b>
7	Bombay High Court	Writ Petition No.5234 of 2005	State of Maharashtra V/S State Election Commission	10/8/2005	Art 243K empowers Election Commission to postpone the elections in case of genuine supervening difficulties, for example unforeseen calamities like floods, earthquake etc.
8	Bombay High Court	Writ Petition No. 6405 OF 2005	State of Maharashtra V/S State Election Commission	28/9/2005	Importance which the Constitution ascribes to free and fair elections is evident from the role and position of the Election Commission and the conferment of wide powers upon the Commission that would achieve this significant constitutional goal in a democratic society. <b>Administrative exigencies cannot be allowed to override the constitutional prescription of free and fair elections.</b> The State Government must and shall do everything that is necessary to cooperate with the mandate of the State Election Commission.
9	Supreme Court	Appeal (civil) 5756 of 2005 (Special Civil Application No.9847/2005)	Kishansing Tomar V/S Municipal Corporation Ahmadabad	19/10/2006	State governments to recognize the significance of the State Election Commission, which is a <b>constitutional body</b> and it <b>shall abide by the directions of the Commission</b> in the same manner in which it follows the directions of the ECI of India during the elections for the Parliament and State Legislatures. The powers of the State Election Commission in respect of conduct of elections is no less than that of the ECI of India in their respective domains.

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					For the independent and effective functioning of the State Election Commission, where it feels that it is not receiving the cooperation of the concerned State Government in discharging its constitutional obligation of holding the elections to the Panchayats or Municipalities within the time mandated in the Constitution, it will be open to the State Election Commission to approach the High Courts, in the first instance, and thereafter the Supreme Court for a writ of mandamus or such other appropriate writ directing the concerned State Government to provide all necessary cooperation and assistance to the State Election Commission to enable the latter to fulfill the constitutional mandate.
10	High Court of Gujarat (Ahmadabad)	Special Civil Application No. 16313 of 2015	Virendrasinh Mafaji Vaghela & 1 V/S State of Gujarat	21/10/2015	<p>Though on the part of the State Election Commission is obliged to initiate the process for elections 45 days in advance, &amp; in the case of failure any citizen affected thereby would be at liberty to approach this Court under Article 226 of the Constitution for seeking appropriate direction against the State Election Commission.</p> <p>Ordinance No.2 of 2015, which reads as under:-  <b>“Subsection (1) Subject to the provisions of Section 43, the election of members to Panchayats shall be held on such date as State Election Commission may appoint in that behalf.”</b>  <b>Ordinance No. 3 : substitutes few words in Section 7A of the GPMC Act, Section 8A of Municipalities Act and Section 257 of the Act</b>  e.g .In Section 257 of the Act, in place of the words  “natural calamity, riots, communal</p>

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					<p>disturbances”, words substituted and added are: <b>“unforeseen circumstances such as natural calamity, riots, disturbances or on account of apprehension that the voters will not be allowed to vote frankly and freely.”</b></p> <p><b>As with postponing the elections, the scope for appointment of the administrator is not only expounded, but a leeway or a room is given to the State Election Commission to postpone election on such ground by statutory recognition of the circumstances in contravention to the express provisions and spirit of the constitution. So Section 7A of the GPMC Act, Section 8A of Municipalities Act and Section 257 of the Act brought about by Ordinance No.3 of 2015 are held to be unconstitutional and void.</b></p> <p>So State Election Commission of Gujarat is directed to initiate process of holding the election of the local bodies forthwith.</p>
11	Supreme court	Special Leave to Appeal (C) No(s). 33904-33910/2017	Ravindra Parshi Paradke V/S Kalusing &ors	10/7/2019; 28/8/2019; 7/11/2019; 18/12/2019	<p>..... We fail to understand as to how the <b><i>pendency of that Bill can (not) be a just ground for deferring the issuance of election programme by the State Election Commission, keeping in mind the constitutional mandate that the new committee of the concerned Zilla Parishads and Panchayat Samitis ought to be installed before the term of outgoing committees expire. In any case, the elections cannot be postponed indefinitely...</i></b></p> <p>.....mind the constitutional</p>

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					<p>mandate coupled with the fact that there is no duly elected body in respect of as many as five Districts in the State – now being governed by the Administrator(s). It is, therefore, incumbent upon the State Election Commission to expedite the election process. We reiterate that the fact that the process of revisiting reservations in the concerned local bodies is not complete shall not come in the way of the State Election Commission to notify the election programme, if it is already in a position to do so. That cannot brook any further delay as administrator(s) have been appointed ....</p>
12	Bombay High Court (Aurangabad Bench)	Civil PIL CJ-LD-VC-48 of 2020	Archana Deshmukh V/S State of Maharashtra & Ors.	14-08-2020	<p>....The State Government is permitted to go ahead with the appointment of the Administrator from the four categories which are mentioned in paragraph 51(b) of the affidavit in reply to those Gram Panchayats (the Extension Officer (Agriculture), Extension Officer (Health), Extension Officer (Education), Extension Officer (Panchayat)) whose term has already expired, expiring today or in near future.....The State Government may consider the suggestions given by some of the learned counsel for the Petitioners to appoint even Gram Sevak as an Administrator.... <b>will strictly adhere to the averments made in paragraph 51(b) of the affidavit in reply filed by the State Government, and will not appoint any private person as an Administrator/Administrators</b></p>

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3. Powers of Transfer of Election Related Officers					
13	Supreme Court	Writ Petition No. 2157/2002	Lalji Shukla and another V/S ECI of India	16/1/2002	<p>The words 'superintendence, direction and control' and the words 'conduct of elections' are very wide words and thus they give power to the Election Commission to do all that is necessary to ensure free and fair elections so that the will of the people can be expressed thereby...</p> <p>Election Commission is valid as it does not discriminate between different officers but a uniform directive has been issued for all the officers who have completed four years of stay in the same district, to move out. This directive appears to be quite reasonable.</p>
14	Supreme Court	A.F.R. Reserved Case :- MISC. BENCH No. - 2796 of 2014	Nutan Thakur [P.I.L.] V/S Election Commission of India	7/4/2014	<p>The words "control", "superintendence" and "discipline" occurring in section13-CC of Representation of the People Act, 1950 and section28-A of Representation of the People Act, 1951, in our considered opinion, embrace the power, authority and jurisdiction of the Election Commission to require transfer of the officers employed in connection with conduct of elections.</p> <p>Thus, the submission that the State Government ought to act in consonance with the provisions of the Cadre Rules even in case where Election Commission requires it to transfer and post the officers belonging to Indian Administrative Service and Indian Police Service during election period is absolutely misconceived...</p> <p>that Cadre Rules have not been framed nor they can be said to be a law framed in relation to or in connection with elections..</p>

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15	Bombay High Court	Writ Petition No.9499/2016 &Others	Smt. Jyoti Hanuman Patil V/S The Principal Secretary (Revenue) and Others.	7/12/2016	<p>The provisions under Article 324 of the Constitution refers to superintendence, direction and control of elections to vested in an Election Commission. Such corresponding powers are conferred on the State Election Commission of the State of Maharashtra. for holding free and fair elections, if state Election Commission had issued these directions... It is likely that in some cases, some inconvenience could be caused to the employees who had been transferred due to holding of elections in a particular district or local area, but keeping in view the larger public interest, if the State Election Commission had taken a decision, the State Government would implement the same keeping in view constitutional intent and spirit and for holding free and fair elections.</p>
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4.Voter list

16	Bombay High Court	Writ Petition No. 708 of 2012	Vinod Chandiram Talreja & Anr. V/S Tahsildar, Ambernath Assembly Constituency	12/4/2012	In the larger interest of the society and to preserve the sanctity of the right to vote given to the citizens of this country & to ensure free and fair elections, <b>it is necessary to correct Electoral Rolls accordingly at the earliest..</b>
17	Bombay High Court (Aurangabad Bench)	Writ Petition No. 5859 of 2013	Narendra s/o Bhaskarrao Patil V/S State Election Commission	7/8/2013	On receiving complaints of bogus names in draft roll (of prescribed cut off date), deletion of names of such voters is not legally permissible (In local body elections) but <b>adequate care would be taken to ensure that there shall not be bogus voting at the elections</b>
18	Bombay High Court	Writ Petition No.4419 of 2014	Arun Bhatia VS Election Commission Of India	12/5/2014	The right to vote may be only a statutory right, nevertheless free and fair franchise is a vital democratic institution. .. certain claims and objections are not finally disposed of or that the roll contains certain errors which have remained to be corrected, the same cannot arrest the process of election to the legislature. <b>The election has to be held on the basis of the electoral roll which is in force...</b> Elections cannot be postponed for the same reason, ...claimants and objectors could even evade the acceptance of notices and thereby postpone indefinitely the decision thereon. The holding of elections to the Legislatures, which is a constitutional mandate, cannot be made to depend upon the volition of interested parties." <b>..challenge to constitutional validity of provisions is not to be entertained in public interest litigations</b> <b>.. the election of a candidate is not open to challenge on the score of the electoral roll being defective.</b> .....Supreme Court, upon

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					consideration of its earlier rulings, including the ruling in the case of Lakshmi Charan Sen (supra) held that even assuming that the preparation and publication of electoral rolls are not a part of the process of election within meaning of Article 329(b), the High Court should not have passed interim orders, whereby it not only assumed to control over the election process but, as a result of which, the election process stood the risk of being postponed indefinitely.
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5. Ward Formation & Reservation in Wards					
19	Bombay High Court (Aurangabad Bench)	Writ Petition No.5386 of 2006	Uday Khanderao Pawar, V/S State Election Commission	3/10/2006	Rules are explicit in this behalf. ....increase in the population may increase the number of seats and reservation & it may likely to overlap resulting in repetition of the reservation in respect of some posts, yet <b>the rule regarding rotation of reservation is to be followed both in letter as well as in spirit</b>
20	Bombay High Court (Aurangabad Bench)	Writ Petition No. 6389 of 2006	Prashant Bansilal Bamb, V/S State of Maharashtra	9/2/2007	Considering the constitutional provisions, the law and the Rules of 1996 framed in this regard State Election Commission shall, in exercise of its powers <b>conferred by Article 243-K of the Constitution of India, take effective and meaningful steps in implementing the spirit of the constitutional and legal provision of rotation policy</b> while reserving the seats in the ensuing Panchayat elections in the State of Maharashtra.
21	Bombay High Court (Aurangabad Bench)	Writ Petition No. 3648/2008	Narendra Sacchidanand Kulkarni V/S The State of Maharashtra	21/8/2008	Section 5A of the Act, Section 5A(1)(a) mandates reservation is based upon the population of the respective category of voters in that particular ward and which thereafter are to be rotated. Sub-section(3) of Section 5 sets out that the State Election Commissioner must specify the number and boundaries of the wards into which the City shall be divided for the purpose of the ward election of councilors, <b>Section 5 and 5(3) of the Act, we have absolutely no doubt in our mind that both the formation of wards and reservation can be done simultaneously and the Act does not prohibit such an exercise.</b>

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22	Bombay High Court	Writ Petition No. 7897 of 2011	Gajanan Babar & Ors .. Petitioners V/S The State of Maharashtra & Ors .. Respondents	23/12/2011	If the figures of the latest census are not finally published, then the provisional figures published in such census should be taken into account and where neither final nor provisional figures of the latest census are available, final figures of the census immediately preceding the latest census should be taken into account.
23	Bombay High Court (Aurangabad Bench)	Writ Petition No. 7646 of 2013	Kiran Naehari Wattamwar V/S The State of Maharashtra	4/10/2013	The elections need be taken at a particular time and hence data available at that juncture must be utilized. As the data of total i.e. overall population is available, 2011 population census data has been used only for the purpose of ward formation and not for providing reservation. The group wise data for providing the social reservation on the strength of 2011 population census is not available , available data of last preceding census has been used by the authorities The authority, therefore, cannot be said to have acted with bias or malafides.
24	Bombay High Court (Aurangabad Bench)	Writ Petition No. 3010 of 2015	Prashant s/o Subhash Desarda V/S State of Maharashtra,	23/03/2015	Rules of 2011 were framed in consonance with the amendment Act of 2011, applicable to the election of multi member (as per amended provisions of Section 5(3) of the Act of 1949) Since the Government has again amended Section 5(3) of the Act by ordinance dated 31.12.2014, it rendered impermissible for the State Election Commission to adhere to the rules ....becomes obligatory on the part of the State Election Commission under its powers to devise suitable methodology to hold elections by rotating the seats. The reservation for newly created wards shall be on the basis of the population figures. For the purpose of ascertaining

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					reservation of newly created election wards, reservation of enumeration block of 2005 elections and 2010 elections has been taken into consideration. It is contended that for the purpose of rotation of reservation, reservation of the concerned wards in the years 2005 and 2010 has been considered and care and caution has been taken to ensure that reservation is not repeated in the concerned ward. The action of the State Election Commission in the instant matter, according to us, is in consonance with the statutory provisions as well as constitutional provisions and in conformity with the directives issued by this Court in Writ Petition No. 5385/2011 and other companion petitions.
25	Bombay High Court	Writ Petition No.10175/2016 with others	The Grampanchayat Kharghar & ors. V/S State of Maharashtra & Ors.	27.10.2016	..... we must note that the exercise undertaken by the State Election Commission for formation of the wards for Panvel Municipal Council has rendered futile. <b><i>In our considered opinion, the Government must take decision regarding the formation of a smaller urban area or a larger urban area, change of boundaries, expansion of the areas of the corporation/council and local bodies well in advance ie. at least six months prior to the expiry of the term of such council/corporation, so as to avoid unnecessary exercise and save public time and money. We hope and trust that, in future, the Government will consider the above aspect and take appropriate decision well in time.</i></b>
26	Bombay High Court (Aurangabad Bench)	Writ Petition No.3323/2020 with others	Sameer Subhash Rajurkar V/S Aurangabad MCO & Ors.	26.05.2020	.....In the premise of their bone of contentions and after taking stock of citations relied upon by both sides, following legal propositions are emerged: (i) The Higher courts shall be slow

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					<p>in entertaining the petitions under Articles 226 of the Constitution of India seeking interference in election process.</p> <p>(ii) There is constitutional bar under Article 329 (a) of the Constitution of India which prohibits questioning delimitation of constituencies or allotment of seats in any court of law.</p> <p>(iii) Notification delimiting constituencies and allotting seats has force of law and hence covered by constitutional bar provided under Article 329(a) of the Constitution and it cannot be challenged.</p> <p>(iv) Scope for challenge – though the draft order of delimitation after alteration or modification if any, becomes final, in absence of any provisions laying down that such final order shall have force of law and shall not be questioned in any court of law as provided under section 10 of the Delimitation Commission Act. The final order would be open to challenge provided challenge made soon after publication of the order. Order challenged after publication of notification for holding election of Municipal Corporation, not maintainable in view of Article 226 and 243ZG of the Constitution of India.</p> <p>holding election of Municipal Corporation, not maintainable in view of Article 226 and 243ZG of the Constitution of India.</p>
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6. Nomination Papers & Election Process					
27	Bombay High Court	Election Petition 16/2004	Hindurao Tukaram Shelke V/S Prakash Kallappa Awade	26/10/2004	<p>The expression "a person convicted of any offence" has to be construed as "all offences of which a person has been charged and held guilty at one trial".</p> <p>The applicability of the expression "sentenced to imprisonment for not less than 2 years" would be decided by calculating the total term of imprisonment for which the person has been sentenced."</p> <p>Nomination of a person disqualified within the meaning of sub-section(3) of section8 of RPA on the date of scrutiny of nominations under section36(2)(a) shall be liable to be rejected as invalid and such decision of the returning officer cannot be held to be illegal or ignored merely because the conviction is set aside or so altered as to go out of the ambit of section8(3) of RPA consequent upon a decision of a subsequent date in a criminal appeal or revision".</p> <p><b>What is suspended is not the conviction or sentence; it is only the execution of the sentence or order which is suspended. It is suspended and not obliterated.</b></p> <p>The remission of sentence under section 401 of the Criminal Procedure Code (old) and his release from jail before two years of actual imprisonment would not reduce the sentence to one of a period of less than two years and save him from incurring the disqualification.</p>
28	Bombay High Court	Writ Petition No. 3638 of 2008	Nasif Alam Hafiz Dhature. V/S The State of Maharashtra & Ors	17/6/2008	<p>The serial number is not important. What is important is that the name of proposer or seconder and the candidate should be in the voter's list and it</p>

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					<p>should be identifiable.  <b>Rule (10) of the Rules lays down, “the Returning Officer shall not reject any nomination paper on the ground of any defect which is not of substantial nature...”</b>                  ...this is a fit case where this Court should exercise its jurisdiction under Article 226 of the Constitution of India and in any case this Court is not stalling the election process.</p>
29	Bombay High Court	Writ Petition No.4220 of 2010	Sou.Seema Chintaman Dhondekar V/S The Returning Officer	14/5/2010	<p>The State Government by a Circular dated 20.11.2003 has inter alia directed that the houses within the jurisdiction of a gram panchayat should be entered in the names of both the husband and the wife.                  Section 124 sub-section 2 of the Bombay Village Panchayat Act both the owner and occupier are liable for the payment of property tax. <b>So due to the default of the husband, wife can be treated as defaulter herself.</b></p>
30	Supreme Court	WRIT PETITION (Civil) NO. 121 of 2008	Resurgence India V/S Election Commission of India	13/9/2013	<p>The candidate must take the minimum effort to explicitly remark as ‘NIL’ or ‘Not Applicable’ or ‘Not known’ in the columns and not to leave the particulars blank.                   Filing of affidavit with blanks will be directly hit by Section 125A(i) of the RP Act. However, as the nomination paper itself is rejected by the Returning Officer, we find no reason why the candidate must be again penalized for the same act by prosecuting him/her.</p>
31	Bombay High Court (Aurangabad Bench)	Writ Petition No.13024/2018	Loksangram (A registered political party with ECI) V/S State of Maharashtra & Ors.	29.11.2018	<p>In absence of required documents in the specific formats Annexure I and Annexure II, the nomination form of the petitioners were treated as an nominations form of the independent candidate and not the candidate set-up by registered political party....the mode and tenor of the order dated 25th February,</p>



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					<p>2013 issued by the State Election Commission itself indicates that the notice should be submitted in specific format Annexure - I and Annexure - II as notified by the State Election Commission. After careful analysis of all the aforesaid provisions, it becomes manifestly clear that, if and only if, there is compliance of all these formalities, the candidate would be considered as candidate set-up by a registered political party,</p>
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**7. Validity of Caste Certificate & its Related Issues**

32	Bombay High Court	Writ Petition No. 8389 of 2005	Ramesh S. Kamble V/S The State of Maharashtra	20/10/2006	<p>Even if a person belongs to Scheduled Caste earlier, he can get constitutional benefits despite belonging to "Boudha" religion.</p> <p>As per the constitution order (Scheduled Caste) 1950 as well as according to para 20 of the Government Resolution dated 21.3.1979, a person claiming to be belonging to scheduled caste can be of either Hindu, Sikh, or Bouddha religion. In case of conversion or reconversion, if any person has embraced his original religion, he gets the status of his original religion.</p> <p>---the Caste Certificate issued by the Competent Authority is valid only subject to verification and grant of validity certificate by the Scrutiny Committee.</p> <p>If the Caste Certificate is cancelled by the Caste Scrutiny Committee, it obviously means that the Caste Certificate has been obtained by that person from the Competent Authority on incorrect facts or erroneous representation. It is not necessary that such claim or declaration must involve turpitude of mind. There may not be any deliberateness in it.</p> <p>The failure on the part of the candidate to establish his caste claim before the Scrutiny Committee and <b>the declaration that the Certificate obtained from the Competent Authority is invalid and thereby cancelled leads to necessary inference that such person made a false claim of his caste belonging to the reserved category to which he did not belong and, thus, incurring disqualification under section16(1C)(a).</b></p>
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33	Bombay High Court	Writ Petition No. 4302 of 2007	Suneeta Satpute V/S The State of Maharashtra & Ors.	24/7/2007 & 3/07/2007	Proviso to Section 5B of the Act provides for automatic termination of the election of the candidate retrospectively in case the caste validation certificate is not produced within the statutory period. .... the petitioner has not only not produced the caste validity certificate within the statutory period of four months of the election, but his caste claim has been rejected by the Caste Scrutiny Committee. <b>In the circumstances, there has been automatic termination of the election of the petitioner with retrospective effect.</b>
34	Bombay High Court	Writ Petition No.5777 of 2007	Dadasaheb Arjun Gulve V/S The State of Maharashtra & Ors.	14/3/08	The scrutiny committee (for caste validity certificate) has not referred to vigilance report at all. In fact it has not considered some documents which were on record before it therefore, remand the matter to the scrutiny committee to decide the validity of the caste certificate.
35	Bombay High Court	Writ Petition No.853 of 2012	Mangesh Nivrutti Kashid V/S The District Collector, Satara	2/5/2012	<b>In cases where that procedure is not followed, the Caste Validity Certificate issued will have no legal basis and is a nullity in the eye of law.</b> The Returning Officer/Election Commission ought to examine at the time of scrutiny of nomination as to whether the caste validity certificate accompanying the nomination form of the concerned candidate has been issued by the Scrutiny Committee after following the procedure prescribed by the Apex Court in Madhuri Patil's case and requirements of the Act of 2000 and in particular whether it has been issued after obtaining vigilance report about the caste claim. Application for verification of the caste certificate by the Scrutiny Committee shall be filed at least six months in advance before

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					seeking admission into educational institution or an appointment to a post.
36	Bombay High Court	Writ Petition No. 3315 of 2013	Kalpna Dilip Bahirat V/S Pune Municipal Corporation	09/04/2013	<p>There is enough material to show that the petitioner could not have filed the nomination form as she was not possessing a genuine caste certificate as well as the caste validity certificate on the date of filing nomination form...</p> <p><b>The conduct of the petitioner is such that she cannot be permitted to invoke discretionary jurisdiction of this Court under Article 226 of the Constitution of India.</b></p> <p>This is a fit case where the petitioner should be saddled with costs. We quantify the amount of costs at Rs.25,000/ which shall be payable to the fourth respondent/the Maharashtra State Election Commission within a period of six weeks from today.</p>
37	Supreme Court	SLP(C) 19296/2013 1	Kalpna Dilip Bahirat V/S Pune Municipal Corporation	27/06/2013	<p>Article 243ZG of the Constitution, the election of a person elected to the Municipality can only be called in question by an Election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of the State (and section16 of the 1949 Act provides for the manner in which election to any municipality can be called in question) but the opening words of subsection(4) of section10 of the 2000 Act, provide that “notwithstanding anything contained in any law for the time being in force”, which obviously will also include section16 of the 1949 Act, the deeming provision in sub-section(4) of section10 of the 2000 Act will have to be given effect to and will not await the outcome of an election petition. We, therefore, maintain the order passed by the</p>

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					High Court for the reasons indicated in this judgment.
38	Bombay High Court	Writ Petition No.3007 of 2013	Mrs. Seema Dattatraya Phuge V/S The Municipal Commissioner, BMC	25/4/2013	<p>Petitioner could not have contested the election as she was not possessing requisite documents till the last date fixed for filing of the nomination papers. She produced fabricated caste certificate and caste validity certificate along with nomination form.</p> <p><b>This conduct of the petitioner is such that she cannot be permitted to invoke the discretionary jurisdiction of this Court under Article 226 of the Constitution of India. The petitioner prevented a candidate who was possessing a lawful caste validity certificate, from getting elected</b></p> <p>It is true that a legally elected candidate like the petitioner, cannot be thrown out without taking recourse to the remedy of election petition. But in the present case, we are testing the conduct of the petitioner who is seeking to invoke extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. The Writ Court is not open for such a litigant who has no regard for the truth. If a writ as sought by the petitioner is issued, the petitioner will get to dishonest advantage on the basis of the fabricated and got up certificates this is a fit case where the petitioner should be saddled with exemplary costs. We quantify the costs at Rs.25,000/which shall be payable to the Maharashtra State Election Commissioner within a period of six weeks from today.</p>

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8. Right To Vote / Need to know the antecedents /Disqualification of candidates

39	Supreme Court	Appeal (civil) 7178 of 2001 Writ Petition (civil) 294 of 200	Union of India V/S Association for Democratic Reforms	02/5/2002	<p>Article 19(1)(a) provides for freedom of speech and expression.</p> <p>Voters' speech or expression in case of election would include casting of votes, that is to say, voter speaks out or expresses by casting vote.</p> <p>For this purpose, information about the candidate to be selected is must.</p> <p>The Election Commission is directed to call for information on affidavit by issuing necessary order in exercise of its power under Article 324 of the Constitution of India from each candidate seeking election to Parliament or a State Legislature as a necessary part of his nomination paper.</p>
40	Supreme Court	Writ Petition (civil) 490 of 2002, Writ Petition (civil) 509 of 2002, Writ Petition (civil) 515 of 2002	People's Union of Civil Liberties (P.U.C.L.) & Anr. V/S Union of India & Anr.	13/3/2003	<p>A successful democracy posits an 'aware' citizenry;</p> <p>The concomitant of the right to vote which is the basic postulate of democracy is thus twofold:</p> <p>first, formulation of opinion about the candidates and Second, the expression of choice by casting the vote in favor of the preferred candidate at the polling booth.</p> <p>Ballot is the instrument by which the voter expresses his choice ...</p> <p><b>Securing information on the basic details of the contesting candidates promotes freedom of expression and therefore the right to information forms an integral part of Article 19(1)(a). The right to vote is a constitutional right but not merely a statutory right;</b></p> <p>Freedom of voting as distinct from right to vote is a facet of the fundamental right enshrined in</p>

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					<p>Article 19(1)(a). The right to information provided for by the Parliament under section 33A in regard to the pending criminal cases and past involvement in such cases is reasonably adequate to safeguard the right to information vested in the voter/citizen. However, there is no good reason for excluding the pending cases in which cognizance has been taken by Court from the ambit of disclosure. The Election Commission's orders related to disclosure of assets and liabilities will still hold good and continue to be operative. However, <b>direction No.4 of para 14 insofar as verification of assets and liabilities by means of summary enquiry and rejection of nomination paper on the ground of furnishing wrong information or suppressing material information should not be enforced.</b></p>
41	Bombay High Court	Writ Petition No.2219 of 2005	Ramdas Abbasaheb Deshmukh V/S The State of Maharashtra	02/02/2007	<p>Candidates who violates Section 3(1)(a) of the Maharashtra Local Authority Members' Disqualification Act, 1986 (hereinafter referred to as the MLAMD Act) and consequently stood disqualified and ceased to be a member of the local body. Section 7 of the MLAMD Act reads as under : "7. Decision on question as to disqualification on ground of defection. ..... d (ii) in the case of any other councillor or, member, to the Collector; and the decision of the Commissioner, or as the case may be, Collector shall be final." Section16(5)(b) of The Maharashtra Zilla Parishads and Panchayat Samities Act, 1961(for</p>

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					the Divisional Commissioner to issue a notification disqualifying a person for a period of six years from the date of such order) requires , the disqualification must arise as a result of the provisions of section16(5)(a). , <b>But as disqualification for defection is not under section16(5)(a). Then The question that falls for consideration is whether Respondent No.2 (i.e. Divisional Commissioner) had the power or the jurisdiction to pass the impugned order. The question must be answered in the negative.</b>
42	Bombay High Court (Aurangabad Bench)	Criminal Application No. 5011 of 2011 (In Criminal Appeal No. 449 of 2011)	Anil Chhabildas Chaudhari V/S The State of Maharashtra	21/9/2011	The Court to suspend the order of conviction as normally what is suspended is the execution of the sentence ... In a fit case if the High Court feels satisfied that the order of conviction needs to be suspended or stayed so that the convicted person does not suffer from a certain disqualification provided for in any other statute, it may exercise the power because otherwise the damage done cannot be undone; that such power should be exercised only in exceptional circumstances where failure to stay the conviction, would lead to injustice and irreversible consequences.
43	Supreme Court	WRIT PETITION (CIVIL) NO. 490 of 2005	Lily Thomas V/S Union of India & Ors.	10/7/2013	<b>“Disqualified” to mean disqualified for being chosen as, and for being, a member of House...</b> <b>...disqualified from the date of conviction and the disqualification was to continue for the specific period mentioned in the sub-section</b> ....but sub-section(4) of section 8 of the Representation of the People Act, 1951 ‘in the case of a person who on the date of the conviction is a member of



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					<p>Parliament or the Legislature of a State, take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the court.</p> <p>...So is in contravention of the provisions of clause (1) of Articles 102 and 191 of the Constitution.</p> <p><b>Constitution put express limitations on such powers of the Parliament to defer the date on which the disqualifications would have effect.</b></p> <p><b>Subsection(4) of section8 of the Act which we have by this judgment declared as ultra vires the Constitution</b> notwithstanding that he files the appeal or revision against the conviction and /or sentence.</p>
44	Bombay High Court	Writ Petition No.3293 of 2012	Anil Shekatkar V/S Deep Narayahn Chavhan	27/8/2013	<p>The petitioner had given details that he was having two children as he has mentioned only the names of the other two living issues.</p> <p>The fact of death of son of the petitioner was itself challenged in the Election Petition No. 1 of 2008. As per petition, the Election Officer ought not to have approved the nomination papers of present petitioner, as petitioner was having three children at the time of filing of nomination form. It appears that the present petitioner was given an opportunity to lead evidence before the Trial Court. But present petitioner failed to do so.</p> <p>The nature of the petition, and the false claim of the representative of people manifesting ugly greed of the power, leads not to stay the order and inclined to saddle costs on the petitioner to the tune of Rs. 25,000/(Rs. Twenty five thousand only) and the petitioner is directed</p>

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					to pay the costs in the official funds of the Respondent No. 2.
45	Supreme Court	CIVIL APPEAL NOS. 3040-3041 of 2004	The Chief Election Commissioner Etc. ... V/s Jan Chaukidar (Peoples Watch) & Ors. ...	10/7/2013	Section 62 of the 1951 Act is titled "Right to vote" and it provides in sub-section(5) that no person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police. The proviso to sub-section (5) of section 62 of the 1951 Act, however, states that the sub-section will not apply to a person subjected to preventive detention under any law for the time being in force. <b>A person who has no right to vote by virtue of the provisions of sub-section(5) of section 62 of the 1951 Act is not an elector and is therefore not qualified to contest the election to the House of the People or the Legislative Assembly of a State.</b>
46	Supreme Court	SLP NO. 14918/2009 (CA No 1478/2015)	Krishnamurty V/S Shiv Kumar	5/2/2015	In a vibrant democracy, the voter must be given an opportunity to choose none of the above (NOTA) button, which will indeed compel the political parties to nominate a sound candidate.  <b>The freedom of election is two-fold; (1) freedom in the exercise of judgment. (2) Freedom to go and have the means of going to the poll</b> <b>"Right to contest an election is neither a fundamental right nor a common law right. but — a right originating in the Constitution and given shape by a statute.</b> So right the election of an elected candidate can only be declared null and void regard being had to the grounds provided in the statutory enactment. And the

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					<p>ground of 'undue influence' is a part of corrupt practice.</p> <p><b>Affidavit duly sworn by the candidate has its own signification and has to be put in public domain so that the electorate can know. If they know the half-truth it is more dangerous</b>, for the electorate are denied of the information which is within the special knowledge of the candidate.</p> <p><b>Concealment or suppression of this nature deprives the voters to make an informed and advised choice as a consequence direct or indirect interference or attempt to interfere with the free exercise of the right to vote by the electorate, on the part of the candidate..</b></p> <p>....the High Court is justified in declaring that the election as null and void on the ground of corrupt practice.</p>
47	Supreme Court	WRIT PETITION (CIVIL) NO. 671 OF 2015	Rajbala & Others V/S State of Haryana	10/12/2015	<p><b>Every person who is entitled to vote is not automatically entitled to contest for every office under the Constitution.</b> Constitution itself imposes limitations on the right to contest depending upon the office. Question is not their number but a constitutional assessment about suitability of persons belonging to those classes to hold constitutional offices.</p> <p><b>Minimum educational qualification</b> : it is necessary that the elected representative must have some educational background to enable him/her to effectively carry out the functions assigned to Panchyats in Part IX. It is the legislative wisdom to decide as to what should be the minimum qualifications, which</p>

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					<p>should be provided in the Act.</p> <p><b>Having a functioning toilet at residence:</b> if any representative won't have it, it is not because that he cannot afford to have a toilet but because he has no intention of having such facility at his residence.</p> <p><b>Insolvency :</b> is not defined under the Constitution. It is an aspect of indebtedness - a specified category of indebtedness. If the Constitution makers considered that people who are insolvent are not eligible to seek various elected public</p>
48	Supreme Court	WRIT PETITION (CIVIL) NO. 784 OF 2015	Lok Prahari V/S Union Of India & Others	16/02/2018	<p>UNDUE ACCRETION OF ASSETS of LEGISLATORS and their ASSOCIATES is certainly a matter which should alarm the citizens and voters of any truly democratic society. Such phenomenon is a sure indicator of the beginning of a failing democracy. If left unattended it would inevitably lead to the destruction of democracy and pave the way for the rule of mafia. Democracies with higher levels of energy have already taken note of the problem and addressed it. <b>Unfortunately, in our country, neither the Parliament nor the Election Commission of India paid any attention to the problem so far.</b></p> <p><b>The purpose of prescribing disqualifications is to preserve the purity of the electoral process. Purity of electoral process is fundamental to the survival of a healthy democracy.</b></p> <p>Parliament under Section 169 of the RP Act of 1951 authorizes the Government of India to make rules for carrying out the purposes of the Act.</p>

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					<p>The power under Section 169 is very wide. <b>The function of rule-making is to fill up the gaps in the working of a statute because no legislature can ever comprehend all possible situations which are required to be regulated by the statute</b></p> <p>...in the light of the mandate of the directive principles and the prescription of the Parliament under the PC Act that such undue accretion of wealth is a culpable offence LEGISLATOR for offences under the PC Act</p> <p>The State owes a constitutional obligation to the people of the country to ensure that there is no concentration of wealth to the common detriment and to the debilitation of democracy. Therefore, ....<b>to have a permanent institutional mechanism dedicated to the task.</b></p>
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9. Model Code of Conduct

49	High Court Of Punjab & Haryana at Chandigarh	Civil Writ Side Civil Writ Petition No. 270 of 1997	Harbans Singh Jalal V/S Union of India,	27/5/1997	<p>In 1968, Election Commission circulated that code to all recognized political parties in India and to the State Governments. On acceptance by the political parties, it was extended throughout the country.</p> <p><b>So the model code of conduct was not framed by the Commission unilaterally, but by the consensus of all political parties.</b></p> <p>Writ Petition claiming , the Model Code of Conduct could be brought into force only from the date of actual notification of the election by the Governor of the State and not from the date of announcement of the election schedule by the Election Commission was dismissed by the High Court, holding that the Election Commission is entitled to take necessary steps for the conduct of a free and fair election, even anterior to the date of issuance of notification of election by the Governor, and from the date of announcement of the election by the Commission. Its implementation is necessary for the conduct of free and fair election and to ensure that no political party gets an unfair advantage by virtue of its being in power at the time of election. Announcement of election is made prior to the issuance of statutory notification, as contemplated by section 15 of the Act. If implementation of the model code of conduct is postponed to the date of notification, it will defeat the very purpose of the said code of conduct. Philosophy underlying the model code of conduct is that</p>
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					<p>unfair advantage should not be taken by the ruling party because of its being in power to tilt the views of the electorate on the eve of election.</p> <p>, it is crystal clear that the conduct and management of election cannot be decided with reference to the date of notification of the election</p> <p>Action of the Commission in this regard cannot be faulted, for the said model code of conduct adopted by the political parties does not go against any of the statutory provisions. It only ensures the conduct of a free any fair election which should be pure.</p>
50	Bombay High Court	PIL NO.64 of 2012	Mohanlal Motilal Bhandari V/S Election Commission Of India	16/9/2014	<p><b>Model of Code of Conduct which is in the nature of guidelines</b> has been implemented from time to time as also appropriate actions are taken whenever a complaint has been received by the State Election Commission. All these actions <b>are completely within the domain of the Election Commission and cannot be made justiciable under the jurisdiction of this Court under Article 226 of the Constitution of India.</b></p> <p>In any event such directions also cannot be issued for the reasons that the framing of such rules concerning free and fair elections is completely within the legislative domain falling under Part XV of the Constitution of India.</p>

10. Election Expenditure

51	Supreme Court	JT 1996 (3) 706, 1996 SCALE (3)258	Common Causea Registered Society V/S Union of India & Ors.	4/4/1996	<p><b>Section 293A of the Companies Act, 1956 :-</b></p> <p>(a) no Government company; and</p> <p>(b) no other company which has been in existence for less than three financial years. shall contribute any amount or amounts, directly or indirectly,</p> <p>(i) to any political party; or</p> <p>(ii) for any political purpose to any person.</p> <p>A company, not being a company referred to in clause (a) or clause(b) of sub-section (1), may contribute</p> <p>.....such contribution, in any financial year, a company shall not exceed five % of its average net profits determined in accordance with the provisions of sections 349 and 350 during the three immediately preceding financial years.</p> <p>Provided further that no such contribution shall be made by a company unless a resolution authorizing the making of such contribution is passed at a meeting of the Board of Directors and such resolution shall, subject to the other provisions of this section be deemed to be justification in law for the making and the acceptance of the contribution authorized by it.</p> <p>Any expenditure incurred or authorized by a political party in respect of general propaganda or for the propagation of its election manifesto shall not be considered an expenditure to be incurred in connection with the election of the candidate/candidates belonging to the said party.</p>
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					<p>The entire gamut of election is under the supervision and control of the Election Commission. The commission can issue suitable directions to maintain the purity of election and in particular to bring transparency in the process of election.. include the scrutiny of all expenses incurred by a political party, a candidate or any other association or body of persons or by any individual in the course of the election.</p> <p>The expression "Conduct of election" is wide enough to include in its sweep, the power to issue directions - in the process of the conduct of an election - to the effect that the political parties shall submit to the Election Commission, for its scrutiny, the details of the expenditure incurred or authorized by the parties in connection with the election of their respective candidates.</p>
52	Bombay High Court	Writ Petition No.3779/2011	Rajesh Shriram Mapari V/S State of Maharashtra	4/5/2012	<p>State Election Commission adjudged this case on the non-submission of the statement of account i.e. Annexure I, as required by section 16 (1D) of the Act, and the reasons/justification pleaded by the petitioner during the hearing were not accepted. The State Election Commission thus being satisfied that the Petitioner could not give good reason/justification for failure; passed the Order dated 27/05/2011 disqualifying the Petitioner.</p>

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11.Electronic Voting Machines					
53	Bombay High Court	Criminal Writ Petition No.1184 of 2012 with Criminal Application No.170 of 2013	Sukrina Lobo and others. V/S State of Maharashtra and others	8/7/2013	If the Petitioners who claimed to have voted at the elections from a particular ward and in favour of the candidate belonging to Congress Party, feel that their votes have not been accounted for, then, they have adequate remedies in law. If they have filed the complaint, but which has not been completely redressed, then, they can invoke jurisdiction of the competent criminal court. but the issues raised in the Writ Petition cannot be examined by us in our writ jurisdiction
54	Supreme Court	WRIT PETITION (CIVIL) NO. 161 of 2004	People's Union for Civil Liberties & Anr. V/S Union of India & Anr.	27/9/2013	Rule 49-O of the Rules, the right of a voter who decides not to vote has been accepted but the secrecy is not maintained. The right of secrecy has been extended to only those voters who have exercised their right to vote and the same, in no manner, can be extended to those who have not voted at all. <b>The mechanism of negative voting, thus, serves a very fundamental and essential part of a vibrant democracy.</b> we direct the Election Commission to provide necessary provision in the ballot papers /EVMs and another button called "None of the Above" (NOTA) may be provided in EVMs so that the voters, who come to the polling booth and decide not to vote for any of the candidates in the fray, are able to exercise their right not to vote while maintaining their right of secrecy.
55	Bombay High Court	Writ Petition No.2893 of 2014	Madhusudan Dinesh Jangam V/S Devendra Timappa Bhandare	18/3/2014	The trial Court held that since the constituencies were multi-member constituencies, it is possible that some of the voters might have not cast their votes for all the candidates which can possibly be an explanation for the discrepancy between the voters who had cast their votes and the

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					figure of 8020. The trial Court has further observed that it is not a question as to whom prejudice would be caused but whether the appointment of the Court Commissioner is necessary to submit a report as regards the chips in the EVMs. The trial Court ultimately held that considering the margin of defeat, the appointment of the Court Commissioner to check the chips in the EVMs is not warranted.
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