

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13024 OF 2018

- 1 Loksangram
A registered Political Party with Election
Commission of India
Having Registration No. 56/82/2008/JS-III
Through its authorised person -
Bhagwan s/o. Narayan Jirekar,
Age : 58 years, Occupation : Agri.,
Resident of - Lane No. 4, House No. 2759,
Dhule, District Dhule
- 2 Sau. Sangita Madhukar Tayde,
Age : 37 years, Occupation : Household,
Resident of : Bhivsan Nagar,
Wadibhokar Road Dhule, District Dhule
- 3 Sau. Asha Devidas Wagh,
Age 53 years, Occupation : Household,
Resident of Dhule, Dhule, District Dhule
- 4 Shri Rajendra Krushna Wagh (Bhil),
Age : 33 years, Occupation : Business,
Resident of : Walwadi Dhule,
District Dhule
- 5 Sau. Yogita Gajanan Deore
Age : 31 years, Occupation : Household,
Resident of : Bhokar,
District Dhule.
- 6 Sau Ayodhya Rajesh Patil
Age : 37 years, Occupation : Household,
Resident of : Walwadi,
District Dhule.
- 7 Shri. Amol Laximan Suryawanshi
Age : 39 years, Occupation :
Resident of : Gavale Nagar,
Deopur Dhule, District Dhule.

- 8 Sau. Vandana Sunil Suryawanshi,
Age : 39 years, Occupation : Household,
Resident of : Deopur, Dhule,
District Dhule
- 9 Sau. Usha Gokul Patil,
Age : 44 years, Occupation : Household,
Resident of : Deopur, Dhule,
District Dhule
- 10 Shri. Amit Madhukar Dusane,
Age : 40 years, Occupation :
Resident of : Vidyanagar Deopur,
Dhule, District Dhule
- 11 Shri. Nimba Trimbak Marathe,
Age : 51 years, Occupation : Business,
Resident of : Vignaharta Colony,
Deopur, Dhule, District Dhule
- 12 Julekhabi Mustaf Shikh,
Age : 60 years, Occupation : Household,
Resident of : Mohmmadi Nagar,
District Dhule
- 13 Sugrabi Shaikh Akbar,
Age : 65 years, Occupation : Household,
Resident of : Lal Sardar Nagar,
Deopur Dhule, District Dhule
- 14 Shri. Bipinchandra Krushnrao Rokade
Age : 38 years, Occupation : Business,
Resident of Indira Colony,
Deopur Dhule, District Dhule.
- 15 Nurkha Navajkha Pathan,
Age 42 years, Occupation : Business,
Resident of : Lane No. 6, Deopur Dhule,
District Dhule
- 16 Shri. Vishal Madhukar Salve,
Age : 42 years, Occupation : Advocate,
Resident of : Chandan Nagar,
Deopur Dhule, District Dhule

- 17 Shaikh Jakiyabi Shaikh Jakir,
Age : 46 years, Occupation : Advocate,
Resident of : Chandan Nagar,
Deopur Dhule, District Dhule
- 18 Sau. Sunanda Mohingir Gosavi,
Age : 50 years, Occupation : Household,
Resident of : Chandan Nagar,
Deopur Dhule, District Dhule
- 19 Shri Ananda Shenphadu Patil,
Age : 64 years, Occupation :
Resident of : Deopur Dhule,
District Dhule
- 20 Sau. Manisha Sajan Chaodhari,
Age : 38 years, Occupation : Household,
Resident of : Wadibhokar Road,
Deopur Dhule, District Dhule
- 21 Shri Dilip Yashwant Salunkhe,
Age : 56 years, Occupation : Business,
Resident of : Plot No. 12, Anmol Nagar,
Deopur Dhule, District Dhule
- 22 Shri Ravindra Chintaman Kothavade,
Age : 54 years, Occupation : Business,
Resident of : Plot No. 12, Anmol Nagar,
Deopur Dhule, District Dhule
- 23 Sau. Satyabhama Ashok Patil,
Age : 50 years, Occupation : Household,
Resident of : Walvadi, Dhule,
District Dhule
- 24 Shri Rangrao Ravindra Sisode,
Age : 33 years, Occupation : Business,
Resident of : Mahindale, Sakri Road,
Dhule, District Dhule
- 25 Shri Bhatu Prakash Gawate,
Age : 35 years, Occupation : Business,
Resident of : Plot No. 15, Okarna
Society, Dhule, District Dhule

- 26 Shri Vijaykumar Dagaji Javral,
Age : 55 years, Occupation : Business,
Resident of : Narayan Master Chal,
District Dhule
- 27 Shri Yashwant Suresh Bagul,
Age : 36 years, Occupation : Business,
Resident of : Kumar Nagar,
Dhule, District Dhule
- 28 Sau. Sitadevi Chugomal Lund,
Age : 63 years, Occupation : Household,
Resident of : Kumar Nagar Dhule,
District Dhule
- 29 Sau. Suman Hiranman More,
Age : 63 years, Occupation : Household,
Resident of : Suman Hospital, Sakri road
Dhule, District Dhule
- 30 Shri. Lalit Satdeo Taneja,
Age : 63 years, Occupation : Business,
Resident of : Gurunank, Sakri road
Dhule, District Dhule
- 31 Shri. Vishnu Manik Gawali,
Age : 26 years, Occupation : Business,
Resident of : Moglai Sakri road,
Dhule, District Dhule
- 32 Shakil Hajimiya Deshmukh,
Age : 50 years, Occupation : Business,
Resident of : Moglai Sakri road,
Dhule, District Dhule
- 33 Shri Prakash Bhikan Jadhav
Age : 58 years, Occupation : Business,
Resident of : Chani road, Dhule,
District Dhule
- 34 Sau. Mohinibai Chandrakant Shelke,
Age : Major, Occupation : Household,
Resident of : Lane No.5, Dhule,
District Dhule

- 35 Shri Amit Subhash Khopade,
Age : 38 years, Occupation : Business,
Resident of : Lane No.5, Dhule,
District Dhule
- 36 Shri Satish Arun Karne,
Age : 38 years, Occupation :
Resident of : 4-5 Chi Bol, Dhule,
District Dhule
- 37 Shri Suraj Rajendra Bhavsar,
Age : 27 years, Occupation :
Resident of : Vanjar Galli, Dhule,
District Dhule
- 38 Sumitra Chankant Runval,
Age : 47 years, Occupation : Household,
Resident of : House No. 1735,
Agra road, Dhule, District Dhule
- 39 Sau. Indubai Eknath Ahire,
Age : 41 years, Occupation : Household,
Resident of : Shubhash Nagar, Lane No.
14, Old Dhule, District Dhule
- 40 Sau. Mirabai Bhausahab Jadhav,
Age : 54 years, Occupation : Household,
Resident of : Lane No. 14, Old Dhule,
District Dhule
- 41 Shri Sharad Eknath Varade,
Age : 44 years, Occupation : Business,
Resident of : Manmad Jin, District Dhule
- 42 Sau. Mirabai Bhausahab Jadhav,
Age : 54 years, Occupation : Business,
Resident of : Lane No. 14, Old Dhule,
District Dhule
- 43 Shri Jitendra Madhukar Mali,
Age : 35 years, Occupation : Business,
Resident of : Lane No. 14, Old Dhule,
District Dhule

- 44 Shri Santosh Dnyaneshor Shednge,
Age : 45 years, Occupation : Business,
Resident of : Hamal Mapadi, Plot Dhule,
District Dhule
- 45 Shri Amit Maroti Pawar,
Age : 35 years, Occupation : Business,
Resident of : Lane No. 06, Dhule,
District Dhule
- 46 Shri Sumit Maroti Pawar,
Age : 54 years, Occupation : Business,
Resident of : Balapur, Dhule,
District Dhule
- 47 Ansari Mohd. Faisal Jahid Husen,
Age : 25 years, Occupation : Business,
Resident of : Molavi Ganj, Dhule,
District Dhule
- 48 Sau. Sangita Kailash Kolwale
Age : 49 years, Occupation : Business,
Resident of : Amar Nagar, Behind
Manohar Talkij, District Dhule
- 49 Shri. Rajendra Madhavrao Kekan,
Age : 48 Years, Occupation : Business,
Resident of : Plot No. 14, GA, SA Colony,
Dhule, District Dhule
- 50 Sau. Meghna Sharad Walhe,
Age : 35 years, Occupation : Business,
Resident of : Patrakar Colony, Dhule,
District Dhule
- 51 Shri. Tushar Kailash Kolwale,
Age : 28 years, Occupation :
Resident of : Amar Nagar, Behind
Manohar Talkij, District Dhule
- 52 Sau. Vaishali Vijaykumar Javral,
Age : 40 years, Occupation : Household,
Resident of : Narayan Master Chal, Dhule,
District Dhule

- 53 Sau. Shital Sandesh Bhope,
Age : 21 years, Occupation : Household,
Resident of : Yashwant Nagar Sakro road,
Dhule, District Dhule
- 54 Shri. Rahul Ramesh Wagh,
Age : 44 years, Occupation :
Resident of : Bhim Nagar, Sakri road,
Dhule, District Dhule
- 55 Shri. Yogesh Dattatray Mukunde,
Age : 46 years, Occupation : Business,
Resident of : Navjivan Nagar, Dhule,
District Dhule
- 56 Sau. Surekha Lalchand Bhamre,
Age : 38 years, Occupation : Household,
Resident of : Jaybhavrav Nagar, Dhule,
District Dhule
- 57 Sau. Padma Gangaram Bhavre,
Age : 29 years, Occupation : Business,
Resident of : Rahul Wadi, Chittod road,
Dhule, District Dhule
- 58 Shri. Paruji Ranuji Ghugare,
Age : 40 years, Occupation : Business,
Resident of : Plot No. 96, Jaymlhar Nagar
Sakri road, Dhule, District Dhule
- 59 Sau. Suvarna Milind Tebhekar,
Age : 37 years, Occupation : Household,
Resident of : Sabhappa Colony, Dhule,
District Dhule
- 60 Shri. Anil Vijaysing Rajput,
Age : 40 years, Occupation : Business,
Resident of : Nilkhgantheshor Colony,
Dhule, District Dhule
- 61 Shri. Sachin Jagnnath Potekar,
Age : 38 years, Occupation : Driver,
Resident of : Plot No. 145, Joravar
Soceity, Dhule, District Dhule

- 62 Shri. Manoj Ramesh Pise,
Age : 35 years, Occupation : Business,
Resident of : Rangari Chal, Chittod road,
Dhule, District Dhule
- 63 Sau. Rajni Sandip Yevlekar,
Age : 39 years, Occupation : Household,
Resident of : Plot No. 10, Relwe Station,
Dhule, District Dhule
- 64 Rajshri Sunil Choudhari,
Age : 36 years, Occupation : Household,
Resident of : Dipaknagar, Dhule,
District Dhule
- 65 Sau. Rekha Sanjay Bagde,
Age : 42 years, Occupation : Household,
Resident of : Sane Guruji Housing
Society, Dhule, District Dhule
- 66 Shri. Ramesh Satwaji Yamgawali,
Age : 36 years, Occupation :
Resident of : Gokul Nagar, Dhule,
District Dhule
- 67 Shri. Subhash Sadashiv More,
Age : 43 years, Occupation :
Resident of : Mohadi Upnagar, Dhule,
District Dhule
- 68 Sau. Nilam Yogesh Vora,
Age : 53 years, Occupation : Household,
Resident of : Gokul Nagar, Dhule,
Dhule, District Dhule
- 69 Shri. Kailash Chaganlal Sharma, .. PETITIONERS
Age : 53 years, Occupation : Business,
Resident of : Oppo. Gavn Milk Deari,
Dhule, District Dhule

VERSUS

- 1 The State of Maharashtra
Through the Collector,
Dhule, District Dhule.

- 2 The Election Commission of India
Nirvanchan Sadan, Ashok Road,
New Delhi.
- 3 The Maharashtra State Election
Commission, Mumbai 32
- 4 The Returning Officer @ Commissioner .. RESPONDENTS
Dhule Municipal Corporation, Dhule

Shri. R. N. Dhorde, Senior Counsel h/f. Mr. Mukul Kulkarni, Advocate for petitioners.

Mr.S. B. Narwade, Assistant Government Pleader for respondent No.1.

Mr. Alok Sharma, Advocate for respondent No.2.

Mr. Ajit B. Kadethankar, Advocate for respondents No. 3 and 4.

**CORAM : S.S. SHINDE &
K.K. SONAWANE, JJ.**

DATE : 29TH NOVEMBER, 2018.

ORAL JUDGMENT : (PER: K. K. SONAWANE, J.)

Rule. Rule made returnable forthwith. Heard finally with the consent of both the sides.

2] The petitioner No.1 is the un-recognized political party, registered with the State Election Commission, Maharashtra under the notification dated 3.4.2012. Rest of the petitioners are the alleged candidates set up by the petitioner No.1 Loksangram political party for contesting the ensuing elections of the Dhule Municipal Corporation - 2018. The petitioners made demand of common symbol "Whistle" specified at Sr.No. 49 in the list of free symbols appended to the aforesaid notification dated 3.4.2012. Unfortunately, the petitioner did

not succeed in the attempt to get common symbol “Whistle” to contest the election of Dhule Municipal Corporation 2018. Being aggrieved by the action of allocation of a different symbol than the symbol “Whistle”, the petitioners rushed to this court and preferred the present writ petition to redress their grievances.

3] The learned Senior Counsel Shri. Dhorde for the petitioner assailed that the act of respondent - Returning Officer allocating the different election symbol than the symbol “Whistle” to each of the petitioners, is highly objectionable, arbitrary and not within the purview of law meant for allotment of election symbol to the contesting candidates. He submits that the petitioners are the members of “Loksangram” a unrecognized registered political party. As per the election programme, petitioners filed their nomination form and made demand of election symbol “Whistle”, as preferential symbol. The petitioners also furnished their affidavit and made declaration that they are the candidates sponsored by “Loksangram” - registered political party. Therefore, petitioners placed demand of common election symbol “Whistle” from the free symbol list, for contesting the elections from concerned ward.

4] Learned Senior Counsel Shri Dhorde gave much more emphasis on the circumstances that the petitioner No.1 - “Loksangram” - registered political party has submitted list of candidates sponsored by it, accompanied with covering letter dated 20-11-2018 to the returning

officer and requested to keep reserve the election symbol “Whistle” common for all its candidates as shown in the list. According to Senior Counsel Shri Dhorde, the concerned Returning Officer vide letter dated 20-11-2018 found reluctant to keep reserve the common symbol “Whistle” for the candidates shown in the list of the petitioner No.1 “Loksangram”- a registered political party. It was further communicated to the petitioners that as per the rules prescribed, time and again by the State Election Commission, Maharashtra and Election Symbol (Reservation and Allotment) Order, 2009, there are provisions for giving preference to the registered political party at the time of allocation of election symbol amongst to the candidates, who are in fray for the concerned ward. Learned Senior Counsel Shri. Dhorde submits that in view of letter dated 20-11-2018 received from Returning Officer, the petitioners were constrained not to take any action, but to wait for decision on the part of respondent - Returning Officer in regard to allotment of election symbol to the candidates of registered political party. However, on 27-11-2018, the Returning Officer allotted election symbol to the candidates whose nomination forms were found valid in scrutiny. The petitioners were taken aback on seeing the different election symbols other than 'Whistle’ allocated to them. The respondent - Returning Officer failed to allocate common symbol “Whistle” to the candidates of the petitioner No. 1 “Loksangram” - a registered political party.

5] Shri. Dhorde, learned Senior Counsel made endeavour to explain the rules and procedure prescribed for reservation and allotment

of election symbol to the contesting candidates. He produced on record copy of the Government Notification dated 31-03-2009 as well as 03-04-2012 issued by the State Election Commission. He has also kept reliance upon the Order of State Election Commission dated 04-02-2012 issued in regard to procedure for allotment of symbol. He submits that the respondent - Returning Officer did not follow the procedure prescribed under the law in proper manner and arbitrarily allocated the different symbols to each of the petitioners, other than the symbol “Whistle”. The respondent - Returning Officer ought to have allocated common symbol “Whistle” to each of the petitioners being contesting candidates sponsored by petitioner No.1 “Loksangram” - a registered political party. In support of his submissions, Shri Dhorde, learned Senior Counsel for petitioners relied upon the legal guidelines delineated in judicial precedents in the matter of *Purshottam Yashwant Patil and others Versus State of Maharashtra and others* reported in *2002(3) Mh.L.J. 492* and *Lok Bharati Versus Election Commission of India and another*, reported in, *2009 SCC OnLine Bombay 1510 : (2010) 1 Bom CR 433*.

6] Per contra, Mr. Kadethankar, learned counsel for respondent - Returning Officer vociferously opposed the contentions propounded on behalf of petitioners and submits that the respondent-Returning Officer allocated the election symbols amongst the contesting candidates of the concerned wards, by adopting the procedure laid down under law. There was no illegality or error committed on the part of the

respondent - Returning Officer. The learned counsel Shri. Kadethankar vehemently submitted that in view of Government Notification dated 30-03-2009, it was essential for the candidate to submit written notice in prescribed format Annexure - I and Annexure - II to the Returning Officer to show that he has been sponsored by the registered political party. The notification dated 25-02-2013 issued by the State Election Commission, Maharashtra, reflects that it is mandatory for the candidates sponsored by political party for election to the Municipal Council / Nagar Panchayat to submit format notice in Annexure - I and Annexure - II to the concerned Returning Officer before 3.00 p.m. on the last date of filing nominations. The learned counsel added that there was no written notice in prescribed format Annexure - I and Annexure - II as modified under the order dated 25-02-2013 from the petitioners to establish that they all are the candidates sponsored by the “Loksangram” - a registered political party. Therefore, the respondent - Returning Officer did not consider the petitioners as a candidates set up by the registered political party and treated them as an “independent candidates” for the Election of Municipal Corporation, Dhule - 2018. The procedure prescribed under notification dated 04-02-2012 was taken into consideration for allotment of election symbol amongst the candidates of the concerned ward. There were “multi-member ward system” and independent candidates more than one claimed the priority for a particular election symbol, and therefore, the procedure laid down in the in notification dated 04-02-2012 for allotment of election symbol was carried out by adopting lottery system. According to learned counsel for respondents, there was no

illegality or error committed in the procedure adopted by the Returning Officer for allocation of election symbol amongst the petitioners.

7] Having given anxious consideration to the arguments advanced on behalf of both sides, we find some merit in the contentions propounded by the learned counsel Shri Kadethankar on behalf of respondent - Returning Officer. It is not put in controversy that the petitioner No.1 is a unrecognized registered political party known as “Loksangram” party. It is also not denied that the petitioner filled up the nomination form for contesting the ensuing election of Dhule Municipal Corporation - 2018 and their nomination forms were found valid in scrutiny. But, there was no sponsorship notice in the format Annexure - I and Annexure - II submitted by the petitioners to show that they are the candidates set up by the registered political party “Loksangram”. In the result, the nomination forms of the petitioners were treated as an nomination form of independent candidates for further process i.e. for allotment of election symbol, etc.

In such backdrop, the pivotal issue to be explored in this petition is, as to -

“Whether the petitioners are entitled for common election symbol “Whistle” to contest the ensuring Dhule Municipal Corporation Election - 2018 from the concerned respective wards, being an candidate set-up by “Loksangram” - a unrecognized registered political party ?”

8] At this juncture, it would be apposite to make a reference of relevant provisions prescribed under the rules for allocation of election symbol to contesting candidates. The order dated 31st March, 2009 issued by the State Election Commission, Maharashtra promulgated the guidelines for reservation and allotment of symbols for the election of Panchayat and Municipalities. The relevant clauses 8 and 9 of the order issued by the State Election Commission are reproduced as under -

“8. Choice of symbols by candidates of registered political parties or other candidates and allotment thereof :-

(1) Any candidate at an election to local bodies in the State other than a candidate set up by registered political party shall choose and shall be allotted in accordance with the provisions hereinafter set out in this paragraph one of the symbols specified as free symbols by the Commission.

(2) Where any free symbol has been chosen by only one candidate at such election, the returning officer/election officer shall allot that symbol to that candidate and to no one else.

(3) Where the same free symbol has been chosen by several candidates at such election, then, if of those several candidates only one is a candidate set up by registered political party, and all the rest are independent candidates, the returning officer shall allot that free symbol to the candidate set up by the registered political party and to no one else, and if of those several candidates two or more are set up by different registered political parties and the rest are independent candidates, the returning officer shall decide by lot to which of the two or more candidates set up by the different registered political parties, that free symbol shall be allotted and allot that symbol to the candidate on whom the lot falls and to no one else :

9. When a candidate shall be deemed to be set up by a registered political party :-

For the purpose of this order, a candidate shall be deemed to be set up by a political party, if and only if, :-

(1) the candidate has made a declaration to that effect in his nomination paper :-

(2) (a) a notice in writing to that effect has been delivered to the Returning Officer of the constituency and the concerned Collector or Municipal Commissioner, as the case may be :-

(i) the political party setting up candidate at any election to Zilla Parishad shall communicate the names of the authorized persons in Form II-A prescribed under rule 15A of the Maharashtra Zilla Parishads (Electoral Divisions and Conduct of Election) Rules, 1962. Such authorized persons shall give notice of intimation of names of candidates in Form II-B of the said Rules.

(ii) the political party setting up candidate at any election to Panchayat Samiti shall communicate the names of the authorized persons in Form II-A prescribed under Rule 15A of the Maharashtra Panchayat Samitis (Electoral Colleges and Conduct of Election) Rules, 1962. Such authorized persons shall give notice of intimation of names of candidates in Form II-B of the said rules :

(iii) such notice and communication shall be sent to the Municipal Commissioner or, as the case may be, to the Collector for the purpose of elections to the Municipal Corporations, Municipal Councils and Nagar Panchayats in the form prescribed in Annexure -I and Annexure - II respectively.

(b) The said notice shall be signed in ink pen or ball point pen by the President, Secretary or any other officer who is authorized by the party to send such notice. A notice signed on behalf of the President, Secretary or the authorized person : or bearing a counter signature, or rubber stamp signature or signed in any other manner, or a notice sent by fax, shall not be permissible. A notice, which is not so permissible, shall not be accepted by; the Collector or the Returning officer.”

9] It is to be noted that the State Election Commission by order dated 25-02-2013 carried out some modification and made mandatory the documentary formalities of submission of Annexure I and Annexure II before 3.00 p.m. of the last date of filing nominations. Accordingly, the State Election Commission, Maharashtra vide order dated 25-02-2013 issued the order which would read as below :-

A) The orders issued by the State Election Commission bearing No. [1] S.E.C./RPP/2009/CR49/KA.11 dtd.24-01-2012, [2] S.E.C./rpp/2009/cr49(II)/ka.11 dtd.31-01-2012, [3] S.E.C./RPP/2009/CR-49/KA.11 dtd.10-10-2012 stand cancelled.

B) The Annexure-II annexed to the Maharashtra Election Symbols (Reservation & Allotment) Rules 2009 issued by the State Election Commission on 31-03-2009 vide No. S.E.C./RPP/2009/CR-49/KA.11 is hereby modified partially, and the modified Annexure-I and Annexure-II are attached the present order. Therefore it shall be mandatory for the candidate sponsored by a political party for election to the Municipal Corporations and Municipal Councils/Nagar Panchayats, to submit the Format notice of Annexure-I and Annexure-II before 3.00 pm of the last date of filing the nomination.

10] In view of aforesaid guidelines delineated by the State Election Commission, Maharashtra, it is perceivable that the candidates contesting the election, would be considered as an candidate set up by a political party only if the candidate has made a declaration in regard to the written notice delivered to the Returning Officer of the constituency or the concerned Collector or Municipal Commissioner, as the case may be, informing him about the name of authorized person, his designation in the political party, who is empowered to submit the names of

candidates set up by the political parties, including other necessary information as contemplated in the format - Annexure - I and Annexure - II. It is also essential that the written notice should bear the signature in ink pen or ball point pen of the President, Secretary or any other officer who is authorized by the party to send such notice. The signature appended on the written notice by any other person on behalf of President, Secretary or the authorized person or being a counter signature or rubber stamp signature or signature in any other mode is not permissible. Moreover, the modified rule under the order dated 25-02-2013 made it mandatory for the candidates sponsored by a political party for the elections to the Municipal Councils / Nagar Panchayats to submit the format notice of Annexure-I and Annexure-II before 3.00 p.m. of the last date of filing the nomination.

11] In the matter in hand, the respondents came forward with specific pleadings that the petitioners did not comply with the mandatory formalities of submitting declarations about the written notice of sponsorship nor they delivered the sponsorship notice in the specific format in Annexure - I and Annexure -II as envisaged under order dated 25th February, 2013. Therefore it cannot be held that the petitioners are the candidates set-up by the petitioner No. 1 - “Loksangram” - a unrecognized registered political party. 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.

12] The learned senior counsel Shri Dhorde strenuously urged that the petitioners filed the list of proposed candidates set up by the petitioner No.1 political party on 20-11-2018, the last date for acceptance of nomination form. The list was submitted alongwith covering letter dated 20.11.2018. According to learned senior counsel Shri. Dhorde, these documents itself demonstrate that the petitioners were the candidates set up by the registered political party “Loksangram”, and consequently, they all made demand of common symbol “Whistle” to contest the election from concerned wards. The petitioners also submitted their individual affidavit to that effect to the Returning Officer for consideration.

13] We are not inclined to accept the argument advanced on behalf of learned senior counsel Shri Dhorde. We are unable to persuade ourselves to arrive at the conclusion that the alleged candidature of the petitioners would be considered as candidates set-up by a registered political party known as “Loksangram” for allocation of common election symbol to them. As referred above, the provision contemplated for allotment of election symbol, made it mandatory to deliver the sponsorship notice to the appropriate authority within stipulated period. It is also incumbent for the concerned candidates to make declaration about the delivery of written notice and its contents in his nomination form. The authority of the State Election Commission, Maharashtra appended the particular format of Annexure - I and Annexure - II with certain modifications with the order dated 25th February, 2013. The

mode and tenor of the order dated 25th February, 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, and thereafter only, he has an locus to claim election symbol of that particular political party being an candidate sponsored by it.

14] It would be reiterated that the petitioners failed to comply with all the mandatory procedural formalities. The documents of bare affidavit of the candidates or list of proposed candidates with covering letter dated 20/11/2018, itself would not advance the case of the petitioners to show that they have complied with all necessary formalities. These documents were not in prescribed format as mandated under order dated 25th February, 2013. There were no declarations of the candidates on record in regard to delivery of written notice in prescribed format Annexure - I and Annexure - II to the Returning Officer or Municipal Commissioners, Dhule, within stipulated period. There were no endeavours to submit the sponsorship notice in specific format Annexure - I and Annexure - II with original signature in ink pen or ball point pen by the President, Secretary or any authorized person, who is empowered to submit the names of candidates set-up by “Loksangram” political party as well as their designation held in the political parties.

The document of bare affidavit of petitioners-candidates or the list of proposed candidates with covering letter dated 20-11-2018 filed by the petitioner would not sub-serve the purpose. In absence of all these mandatory compliance, it cannot be held that the petitioners are the candidates set-up by the “Loksangram”, unrecognized registered political party. Therefore, they are not entitled to claim common election symbol “Whistle” to contest the election from the concerned ward. In contrast, the respondent-Returning Officer has observed the procedure prescribed under law in proper manner. There are no infirmity, error or illegality in the procedure adopted for allocation of election symbol amongst the candidates by lottery system. In such circumstances, there is no propriety to appreciate the contentions put forth on behalf of petitioners for any further directions.

15] In the above premise, we are of the considered opinion that the present writ petition is completely devoid of merit and deserves to be dismissed. In sequel, the writ petition stands dismissed. Rule is discharged. No order as to costs.

[K. K. SONAWANE, J.]

[S. S. SHINDE, J.]

grt