

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2788 OF 2026
WITH
INTERIM APPLICATION NO. 3755 OF 2026
IN
WRIT PETITION NO. 2788 OF 2026

Shailesh Toluram Meshram
Aged-40 years, Occ.; Business,
Having address at : Azad Nagar,
Tumsar, Tal: Tumsar, Dist:
Bhandara – 441912

...Petitioner

Versus

1. State of Maharashtra,
Through its Chief Secretary,
Urban Development Department, Having its
official address at:
Mantralaya, Mumbai - 400 032.

2. Divisional Commissioner,
Nagpur Division, having his
Office address at: Old Secretary
Building, Samaj Kalyan Office road,
Civil Lines, Nagpur - 440 001.

3. District Collector Bhandara,
Having his official address at:
Room No.17, Second Floor, Minority
Hostel Building, Muslim Library Chouk,
Bhandara, Maharashtra - 441904.

4. Tumsar Municipal Council,
Through its President, having
Its official address at: Gandhi Nagar,
Near Tehsil office, Tumsar - 441 912.

...Respondents

AND

**WRIT PETITION NO. 2787 OF 2026
WITH
INTERIM APPLICATION NO. 3761 OF 2026
IN
WRIT PETITION NO. 2787 OF 2026**

Pramod Narayan Titirmare
Aged-49 years, Occ.; Business,
Having address at : Shriram Nagar,
Tumsar, Tal: Tumsar, Dist:
Bhandara – 441912

...Petitioner

Versus

1. State of Maharashtra,
Through its Chief Secretary,
Urban Development Department,
Having its official address at:
Mantralaya, Mumbai - 400 032.

2. Divisional Commissioner,
Nagpur Division, having his
Office address at: Old Secretary
Building, Samaj Kalyan Office road,
Civil Lines, Nagpur - 440 001.

3. District Collector Bhandara,
Having his official address at:
Room No.17, Second Floor, Minority
Hostel Building, Muslim Library Chouk,
Bhandara, Maharashtra - 441904.

4. Tumsar Municipal Council,
Through its President, having
Its official address at: Gandhi Nagar,
Near Tehsil office, Tumsar - 441 912.

...Respondents

**WITH
INTERIM APPLICATION (ST)NO. 16159 OF 2026
IN
WRIT PETITION NO. 2787 OF 2026**

Abhishek Jagdish Karemore

...Applicant

In The matter between:

Pramod Narayan Titirmare
Vs.
State of Maharashtra & Ors.

... Petitioners
... Respondents

Mr. Abhijeet Joshi i/b. Mr. Shantanu Patil, for Petitioner in both WPs.
Smt. Neha S. Bhide GP, a/w. Shri. O.A.Chandurkar, Addl.G.P. a/w.
Smt. P.N.Diwan, AGP, for Respondent in both Wps.
Mr. Rushikesh Kekane, for Applicant in IAST/16159/2026 In WP/2787/26.

**CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.**

**RESERVED ON: 22nd JUNE 2026
PRONOUNCED ON : 25th JUNE 2026**

JUDGMENT: (PER : AARTI SATHE, J)

1. These are two Writ Petitions which raise a challenge to the process of appointment of nominated Councillor in the Tumsar Municipal Council more particularly letter/communication dated 11th February 2026 and 12th February 2026 issued by Respondent Nos.1 and 3 respectively have been challenged.

2 As the reliefs prayed for in both the petitions are similar, this common order can conveniently dispose of both the petitions. The substantive reliefs which are prayed for in Writ Petition No.2788 of 2026 (Meshram) and Writ Petition No. 2787 of 2026 (Titirmare) are as follows: -

COMMON/SIMILAR PRAYERS IN BOTH:

(a) that Rule be issued;

(b) that this Hon'ble High Court be pleased to issue a writ in the nature of a writ of certiorari or a writ, order or direction in the like nature to quash and set aside the impugned letters/communications dated 11th February 2026 and 12th February

2026 issued by the Respondent Nos.1 and 3 respectively and all consequential actions and proceedings arising therefrom;

(c) that this Hon'ble High Court be pleased to issue a writ, order or direction in the nature of writ of mandamus or a writ, order or direction in the like nature directing Respondent No.3 to issue the Official Gazette in accordance with law and to give effect to the validly completed nomination process dated 16th January 2026;

(d) that this Hon'ble High Court in the absence of any legal impediment, be pleased to declare that the nomination process concluded on 16th January 2026 and the appointments made pursuant thereto including the appointment of the Petitioner as the Nominated Councillor of the Tumsar Municipal Council, are valid and binding in law;

(e) that pending the hearing and final disposal this Hon'ble high Court be pleased to stay the implementation, effect and operation of the impugned letters/communications dated 11th February 2026 and 12th February 2026 issued by the Respondent Nos.1 and 3 respectively and all consequential steps taken pursuant thereto;

(f) that pending the hearing and final disposal this Hon'ble high Court be pleased to stay the implementation, effect and operation of the letter dated 12th February 2026, annexed at "Exhibit O", issued by the Respondent No.3, restraining the Respondents from conducting any fresh nomination process pursuant to the impugned communications;

(g) ad-interim and interim reliefs in terms of prayer Clauses (e) and (f) above be granted;

(h) cost of the Petition be provided for;

(i) grant such other and further reliefs as this Hon'ble Court may deem fit and proper in the interest of justice.

3. For convenience we refer to the facts in the Writ Petition No. 2788 of 2026 (Meshram) which would suffice in adjudicating the dispute in the present proceeding. We also note that except for certain dates and names of the Petitioners. The facts in Writ Petition No.2787 of 2026 (Titirmare) are similar:

i) On 21st December 2016, Respondent No. 1 issued a Government Circular clarifying the powers of the President of the Municipal Councils and the procedure for appointment of nominated Councillors to Municipal Councils. Thereafter, the State Election Commission, Maharashtra, vide its order dated 29th October 2025, announced the elections to the Municipal Councils in the State of Maharashtra.

Pursuant thereto, Respondent No. 3 – Collector, by order dated 5th November 2025, declared the General Election Programme, 2025 for the Tumsar Municipal Council.

ii) On 2nd December 2025, the State Election Commission, Maharashtra revised the election programme for the Municipal Council Elections pursuant to the order passed by the Nagpur Bench of this Court in Writ Petition No. 7508 of 2025.

iii) The date fixed for declaration of the election results was 21st December 2025. Accordingly, on 21st December 2025, the results of the General Elections to the Tumsar Municipal Council were duly declared in accordance with law. Consequent upon the declaration of the results, Respondent No. 3 – Collector, vide order dated 23rd December 2025, which was published in the Official Gazette of the State of Maharashtra, notified the name of the newly elected President as well as the list of duly elected Councillors of the Tumsar Municipal Council.

iv) It is the Petitioners' contention that the Tumsar Municipal Council consists of 25 elected Councillors and one directly elected President, thereby making the total strength of the Municipal Council 26 members. It is further the Petitioners' contention that, pursuant to the declaration of the election results on 21st December 2025, the party-wise composition of the Tumsar Municipal Council was as follows:

- a) 01 Directly Elected President - Independent.
- b) 25 elected Councillors: the party-wise strength being as under:
 - i. Bhartiya Janata Party - 10 Seats;
 - ii. Nationalist Congress Party - 10 seats;
 - iii. Indian Nation Congress - 3 seats;
 - iv. Shiv Sena - 1 seat;

v. Independent - 1 seat.

v) On account of the aforesaid election results, post-election alliances came to be formed amongst the newly elected President and Councillors of the Tumsar Municipal Council. Consequently, the composition of the Council was as follows

- a) Bhariya Janata Party Samarthit Gat:
Comprising 11 Councillors (BJP - 1 and Independent - 1), having Gat leader namely Mr. Sachin Babulal Bopche;
- b) Rastravadi Congress Party Pranit Vikas Aghadi:
Comprising of Councillors (NCP - 06) having Gat leader namely Mr. Gaurishankar Subhashchandra Karemore;
- c) Tumsar Rashtravadi Janhit Vikas Aghadi:
Comprising 05 Councillors (NCP - 2 and INC - 3), having Gat leader namely Mrs. Ashwini Pravin Thote;
- d) Tumsar Shahar Vikas Aghadi:
Comprising 04 Councillors (President - 1, NCP - 2 and Shiv Sena - 1) having Gat leader namely Mr. Sagar Manohar Gabhane.

vi) On 1st January 2026, the newly elected President formally assumed charge of the office of the President of the Tumsar Municipal Council. Thereafter, Respondent No. 3 – Collector, vide communication/letter dated 6 January 2026, directed Respondent No. 4 – the President, to convene and conduct the first General Meeting of the Council. Pursuant thereto, Respondent No. 4 issued a notice dated 7 January 2026 to all the newly elected Councillors convening the first General Meeting to be held on 16 January 2026.

vii) By the aforesaid notice, Respondent No. 4 also initiated the statutory process for the appointment of nominated Councillors and declared the programme for the election of the Vice-President of the Tumsar Municipal Council.

viii) The last date and time prescribed for submission of nominations was 15 January 2026 at 2:30 p.m. On the same day, i.e., 15 January 2026, Respondent No. 3 – the Collector, vide a communication of even date addressed to Respondent No. 4 – the President, forwarded the list of candidates found eligible upon scrutiny for the purpose of nomination as Councillors.

ix) It is the Petitioners' contention that Clause 3.6 of the Government Circular dated 21 December 2016 prescribes the number of Councillors who may be nominated under the statutory framework. The said framework is governed by the provisions of the Maharashtra Municipal Councils and Nagar Panchayats (Qualifications and procedure for Appointment of Nominated Councillors) Rules, 2010 (hereinafter referred to as "**the Rules**").

x) According to the Petitioners, the determination of the number of nominated Councillors is required to be made strictly in accordance with the provisions of the said Rules and the aforesaid Government Circular dated 21st December 2016.

xi) In pursuance of the provisions of the said Rules, the maximum permissible number of nominated Councillors for the Tumsar Municipal Council is three (3). It is the Petitioners' contention that, having regard to the post-election alliances as they existed at the relevant time, and for the purpose of determining the entitlement of each alliance to the appointment of nominated Councillors, the strength quotient of each alliance stood as under:

- a) Bhartiya Janata Party Samarthit Gat/Gat/Group: 1.26;
- b) Rastravadi Congress Party Pranit Vikas Aghadi: 0.69;
- c) Tumsar Rashtravadi Janhit Vikas Aghadi: 0.57;
- d) Tumsar Shahar Vikas Aghadi: 0.46.

xii) On 16 January 2026, Respondent No. 4 declared the appointment of the Petitioner as one of the nominated Councillors of the Tumsar Municipal Council. The list of nominated Councillors, as approved and declared in the meeting held on 16 January 2026, was as follows:

i) Mr. Pramod Narayan Titirmare (Petitioner in WP No.2787/2026)

ii) Mr. Hitesh Dilip Chopkar

iii) Mr. Shailesh Toluram Meshram (Petitioner herein)

4. However, Respondent No. 3, by its letter dated 19 January 2026 addressed to the Principal Secretary, Urban Development Department, sought the setting aside of the process of appointment of nominated Councillors of the Tumsar Municipal Council on the ground that Respondent No. 4 had erroneously conducted and concluded the process relating to the appointment of the aforesaid nominated Councillors.

5. On 20 January 2026, Respondent No. 3, vide his order of even date, initiated the process for the election of members to the Standing Committee and other Special Committees of the Tumsar Municipal Council. By the said order, Respondent No. 3 directed that a Special Meeting of the Municipal Council be convened for the purpose of constituting and electing members to the aforesaid Committees in accordance with the governing statutory provisions.

6. On 22nd January 2026 the Petitioner vide letters of even date requested Respondent No.3 that his name as nominated councilor be duly published in the official Gazette. On the said date Respondent No.4 also issued letter requesting Respondent No.3 to issue the official Gazette or to postpone the schedule meeting

dated 27th January 2026 for the election to the standing committee. It is the Petitioners contention that in the letter dated 22nd January 2026 the Petitioner had specifically requested Respondent No.3 to duly publish his name as nominated councilors in the official Gazette as it was a statutory requirement to enable the Petitioner to attend the subject meeting scheduled on 27th January 2026 or to postpone the scheduled meeting. It is petitioner's contention that it was specifically pointed out that similar nominated councilors names had already been issued in the Official Gazette in other districts.

7. Thereafter, Respondent No.1 issued the impugned letter/communication dated 11th February 2026 setting aside the appointment of the Petitioner as nominated councilor and further Respondent No.3 issued another communication dated 12th February 2026 setting aside the nomination process. The Respondent No.3 also directed Respondent No.4 to convene a General meeting for the purposes of undertaking appointment of nominated councilors afresh expressly stating therein that earlier appointment made of 16th January 2026 need to be set aside.

8. It is in the backdrop of the aforesaid facts that the Petitioners being aggrieved by the impugned letters/communication dated 11th February 2026 issued by Respondent No.1 and impugned letter/communication dated 12th February 2026 issued by Respondent No.3 have filed the present Petition. In the course of the proceedings which have been filed by both the aforesaid Petitioners, an Intervention Application has been filed bearing No. 16159 of 2026 in Writ Petition No. 2787/2026 wherein the intervener has prayed for impleadment as

party Respondent in the aforesaid Petition. Primary ground on which intervener has filed the present Interim Application being that the Respondent No.4 erroneously declared the names of three councilors including that of the aforesaid Petitioners without following the provisions of the The Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (hereinafter referred to as 'the Act') and Rules thereunder as well as Government Resolution dated 21st December 2016. It is on this ground that the intervener has sought reliefs from this Court to allow him to be impleaded as party Respondent and also to give him a fair hearing before passing any orders in the aforesaid petition.

9. When the present proceedings were listed before the Co-ordinate Bench of this Court on 11th March 2026, the following order was passed:-

P.C.:-

1. These matters were heard extensively today. At 5.50 p.m. the learned AGP, Mr. Chandurkar, submits that the Court may pass an appropriate order.
2. We have perused the impugned order dated 11th February, 2026, by which a direction has been issued by the Deputy Secretary of the Urban Development Department, State of Maharashtra, to the District Collector, stating that the nominations made for inducting nominated Councillors of the Tumsar Municipal Council, are not in accordance with the provisions of law and the said nominations made by the elected President of the Municipal Council, as well as the procedure adopted by the District Collector, should be cancelled and fresh nominations should be made in terms of the Government Circular dated 21st December, 2016.
3. A single glance at the impugned order indicates that the said order is without reasons. The Deputy Secretary has not taken the pains to indicate in her order as to which provisions of law have been disregarded or which clause of the Circular or which provision of the Maharashtra Municipal Councils and Nagar Panchayats Nominations and Procedure for Appointment of Nominated Councillors) Rules, 2010, has been violated.
4. Though the learned AGP, Mr. Chandurkar, has made a valiant attempt to analyse the impugned order, we can see his discomfort in conveying to us as to which Rule, Section or Clause of the Circular can be said to have been violated, in the light of the impression carried by the Deputy Secretary while passing the impugned order.

5. The District Collector is now set to re-consider his earlier decision of nominations and would now again formalise the nominations of the Councillors tomorrow, ie., 12th March, 2026. The Petitioners before us were already nominated. They are aggrieved that the unreasoned impugned order of the Deputy Secretary, who has no authority to sit over the business of the Municipal Council in nominating Councillors, has led to the District Collector finding himself in a helpless situation. He has no option, but to obey the directions of the Deputy Secretary and cancel the nominations made earlier.

6. Issue notice to the Respondents, returnable on 27th April, 2026. The learned AGP waives service of notice on behalf of Respondent Nos.1 to 3.

7. Let the affidavit in reply be filed, at least, ten days prior to the returnable date.

8. Until further orders, if the Gat Netas have made their recommendations to the President of the Council and, in turn, if the President of the Council has conveyed those names to the District Collector, we direct the District Collector to keep all such nominations in a sealed envelope.

10. Mr. Abhijeet Joshi alongwith Mr. Shantanu Patil, learned counsel appeared on behalf of the Petitioners in both Writ Petitions. Smt. Neha S. Bhide Government Pleader alongwith Shri. O.A.Chandurkar, Addl.G.P. with Smt. P.N.Diwan, AGP, appeared for Respondent in both Writ Petitions. Mr. Rushikesh Kekane, learned counsel for Applicant appeared in Intervention Application (ST) No.16159/2026 in Writ Petition No. 2787 of 2026.

11. The primary contention advanced by the learned counsel appearing for the Petitioners is that the impugned letters/communications dated 11th February 2026 and 12th February 2026, whereby the nomination process was set aside, have been issued in an arbitrary and impermissible manner, thereby vitiating the process of nomination of nominated Councillors. It was further contended that the process of appointment of nominated Councillors to the Municipal Council was conducted in a fair and transparent manner, with all concerned parties being afforded equal

opportunity in accordance with the prescribed procedure, and that no illegality whatsoever had been committed in the said process.

12. It is submitted that the maximum number of nominated Councillors in Tumsar Municipal Council is three (3), and the same is required to be determined on the basis of the relative strength of the recognized parties, registered parties, Groups, or Aghadies. The submission is that the nominations made by Respondent No.3 were in consonance with the provisions of Section 63(2B) of the Act. It was further submitted that, having regard to the aforesaid statutory provisions and the relative strength of the respective parties, the nominated Councillors were duly appointed.

13. On behalf of the intervener, Mr. Abhishek Jagdish Karemore, learned counsel Mr. Rushikesh Kekane submitted that the impugned communications dated 11th February 2026 and 12th February 2026 were rightly issued, inasmuch as the relative strength of the parties had not been correctly determined and the mandate of Section 63(2B) of the Act had not been duly followed. He submitted that, out of total of ten nominations forwarded by various Groups/parties for consideration for appointment to the three posts of nominated Councillors to Tumsar Municipal Council the name of the Applicant was also included. It was further submitted that, upon scrutiny of the said nominations, Respondent No. 3 assessed the relative strength of the respective parties, and the outcome of such assessment was as follows:

- | | |
|---|--------|
| I) Bhartiya Janata Party Samarthit Gat | – 1.26 |
| ii) Rashtrvadi Congress Party Pranit Vikas Aghadi | – 0.69 |

- iii) Tumsar Rastravadi Janhit Vikas Aghadi – 0.57
- iv) Tumsar Shahar Vikas Aghadi - 0.46

14. It was his contention that, having regard to the aforesaid relative strength of the parties, Gat/Group No. 4, namely *Tumsar Shahar Vikas Aghadi*, whose relative strength was only 0.46, was not entitled even to a single nomination to the post of nominated Councillor. However, despite the same, one councilor from Gat/Group No.4 came to be nominated as a Councillor, which, according to the intervener, was contrary to and not in consonance with the mandate of Section 63(2B) of the Act. Consequently, it was submitted that the impugned communications dated 11th February 2026 and 12th February 2026 were rightly issued to rectify the illegality committed in the nomination process.

15. In view thereof, it was submitted that the entire process of nomination of the Councillors was not undertaken in accordance with law and, therefore, the impugned communications dated 11th February 2026 and 12th February 2026 were rightly issued by Respondent Nos. 1 and 3, respectively.

16. Respondent No. 3 has filed an affidavit dated 20th April 2026 through Mr. Sawan Kumar, District Collector, Bhandara, opposing the admission of the aforesaid Petition. The primary contention raised in the said affidavit is that the process of nomination was required to be undertaken in strict compliance with the provisions of the Act, the Rules framed thereunder, and the Government Resolution dated 21st December 2016. It was submitted that, despite the requirement of adhering to the principle of relative strength, the President of Respondent No. 4 – Tumsar Municipal Council proceeded to nominate three

Councillors, namely, two from Gat/Group 'D' and one from Gat/Group 'C'. According to Respondent No. 3, such nominations were not in consonance with the concept of relative strength as envisaged under Section 63 (2B) of the Act and the relevant Rules. Consequently, it was contended that the impugned letters/communications dated 11th February 2026 and 12th February 2026 were rightly issued by Respondent Nos. 1 and 3. The relevant paragraphs of the aforesaid affidavit are reproduced below:

4.1. Tumsar Municipal Council has 25 Elected Councillors, 3 Nominated Councillors and 1 Directly Elected President. In the present matter, the issue involved revolves around the selection of the 3 nominated councillors.

4.2. Considering Tumsar Municipal Council which is Class-B Council. the process of Selection of 3 Nominated Councillors is envisaged in Section 51B of Maharashtra Municipal Council, Nagar Panchayats and Industrial Townships Act, 1965 and Rule 5 of Maharashtra Municipal Councils and Nagar Panchayats (Qualifications and procedure for appointment of nominated Councillors) Rules, 2010. Apart from the aforesaid provisions, the Urban Development Department, Government of Maharashtra has also issued a Government Resolution dated 21.12.2016, which stipulates the procedure in respect of nomination of councillors. Hereto annexed and marked as Exhibit R-2 is a copy of the Government Resolution dated 21.12.2016

4.3. Accordingly, on 02.12.2025. elections of Tumsar Municipal Councils took place. On 21.12.2025, the election results were declared and the 25 Elected Councillors and 1 President stood elected. It is pertinent to note that the said elections are challenged before the Hon'ble Bombay High Court, Nagpur Bench (Writ Petition No. 520 of 2026) now transferred and renumbered as Writ Petition No. 1496 of 2026 (before the Hon'ble Principal Bench) The said matter is pending adjudication.

4.4. Post the stage of election of 25 Elected Councillors and the elected President, the President now had to select 3 Councillors by the process of nomination. The process of nomination had to be strictly in compliance with the provisions laid down in the Act read with the Rules and Government Resolution dated 21.12.2016, ie. taking into account the relative strength of recognized parties or registered parties or Groups in proportion in strength of such parties or Group in the Councils after consulting the leader of each of such parties or Groups. Now taking into consideration the process envisaged, the Nominations were called for from the Group leaders and the same were submitted with Respondent No. 3 for scrutiny.

4.5. These nominations were duly scrutinized by the Respondent No. 3, District Collector, Bhanadara and the exercise of finding out relative strength was also undertaken. The result of the said exercise was as under:

- a. Bhartiya Janata Party Samarthit Gat: 1.26;
- b. Rastravadi Congress Party Pranit Vikas Aghadi: 0.69;
- c. Tumsar Rashtravadi Janhit Vikas Aghadi: 0.57;
- d. Tumsar Shahar Vikas Aghadi: 0.46.

4.6. A list of 10 prospective councillors post the stage of scrutiny were forwarded to the President, Tumsar Municipal Council. The names of the said Councillors and the parties and Gat/Group to which they belong can be seen from the list of 10 prospective Councillors which was forwarded to the President. Hereto annexed and marked as Exhibit R-3 is a copy of the said list of 10 prospective Councillors. Taking into consideration, the relative strength ratio of the parties at "a", "b" & "c" above, it was expected from the president to select 1 Councillors from "a", "b" & "c" each, totalling to 3 Councillors.

4.7. On 16.01.2026, a meeting was convened by the Tumsar Municipal Council for selection of the Nominated Councillors. Instead of following the relative strength ratio envisaged, the President Tumsar Municipal Council, in the course of the said meeting selected 3 Councillors i.e. 2 from Group "d" and one from Group "c". Hereto annexed and marked as Exhibit R-4 is a copy of the minutes of the meeting dated 16.01.2026, (also annexed at Exhibit J' page 67 of the Petition).

4.8. Taking into consideration the irregularity and illegality which took place in the meeting held on 16.01.2026, Respondent No. 3, addressed a letter on 19.01.2026, to the Principal Secretary, Navi-2, Urban Development Department, bringing to their kind attention the facts of the matter as well as specifically stating therein the irregularity which took place in the process of selection of nomination councillors in Tumsar Municipal Council. Hereto annexed and marked as Exhibit R-5 is a copy of the Letter dated 19.01.2026.

4.9. The letter dated 19.01.2026, was duly replied to by the Urban Development Department vide its letter dated 11.02.2026. Taking into account the facts put forth by the District Collector vide its letter dated 19.01.2026, the Urban Development Department, directed the Collector, to take a decision by following due process of law. Hereto annexed and marked as Exhibit R-6 is a copy of the Letter dated 11.02.2026 (also af Exhibit 'A' page 28 of the Petition).

4.10. Thereafter, the Collector, taking into account the gravity of the situation as well as the clear breach of the concept of relative strength took a decision to set aside the entire process of nomination of councillors. It is pertinent to note that as per the relative strength ratio, there ought to have been Nominated Councillors from Gat/Group 'a', 'b' & 'c' above. The process and concept of relative strength has been clearly envisaged in Section 51B of Maharashtra Municipal Council, Nagar Panchayats and Industrial Townships Act, 1965 and Rule 5 of Maharashtra Municipal Councils and Nagar Panchayats (Qualifications and procedure for appointment of nominated Councillors)

Rules, 2010 and also in Government Resolution dated 21.12.2016. Hereto annexed and marked as Exhibit R-7 is a copy of the Letter dated 12.02.2026 (impugned letter/ decision).

5. In view of the abovementioned facts and circumstance, it is humbly submitted that the grounds raised by the Petitioner as regards interference of the executive in the democratic process are unfounded and baseless. It is clear from the minutes of the meeting dated 16.01.2026, that the President, Tumsar Municipal Council by selecting the persons from Group 'd' have exceeded his powers by not following the procedure, breached the statutory provisions and has acted in an arbitrary manner.

17. We have perused the record and considered the submissions advanced by the learned counsel appearing on behalf of the respective parties. Since the controversy involved in the present Petition primarily turns upon the interpretation of the expression “relative strength” as contemplated under Section 63(2B) of the Act, it would be apposite to reproduce the said provision:

Section 63

63. Constitution of Subjects Committees of ‘A’ and ‘B’ Class Councils.—

(1) Each Subjects Committee of the Council appointed under the last preceding section shall consist of such number of Councillors as the Council may determine, so however that the number of members of a Subjects Committee shall not be less than one-fourth or more than one-third of the total number of Councillors:

Provided that, in so determining the number of the members of and Subjects Committee, a fraction shall be ignored:

Provided further that, on the Women and Child Welfare Committee, not less than seventy-five per cent. of the members shall be from amongst women Councillors:

Provided also that, the Chairperson and the Deputy Chairperson on the Women and Child Welfare Committee shall be from amongst the women Councillor members thereof.

Explanation.— For the purpose of computing the number of members at seventy-five per cent., fraction, if any, shall be rounded off to one.

(2) The Collector shall, within seven days of the election of the President under section 51, call a special meeting of the Council for the purpose of,—

(a) determining the number of the members of each of the Subject Committees referred to in the last preceding section, and the Subjects Committee of which the Vice-President shall be the ex-officio Chairman, and

(b) nominating Councillors on the Subjects Committees in accordance with the provisions of sub-section(2B)

Provided that, the President shall not be eligible for being a member of any of the Subjects Committees [but he shall have the right to speak in, and otherwise to take part in the proceedings of, any Subjects Committee, except that he shall not be entitled to vote thereat.

(2A) [(i)] The meeting called under sub-section (2) shall be presided over by the Collector or such officer as the Collector may by order in writing appoint in this behalf. The Collector or such officer shall, when presiding over such meeting have the same powers as the President of a Council, when presiding over a meeting of the Council has, but shall not have the right to vote.

(ii) Notwithstanding anything contained in this Act, for regulating the procedure at meetings (including the quorum thereat), the Collector or such officer may, for reasons which in his opinion are sufficient, refuse to adjourn the meeting convened as per the provisions of sub-section (2), after it was once cancelled or adjourned for want of quorum.

(2B) In nominating the Councillors, the Collector shall take into account the relative strength of recognised parties or registered parties or Groups and nominate members, as nearly as may be, in proportion to the strength of such parties or Groups in the Council, after consulting the leader of each such party or Group:

Provided that, the relative strength of the recognized parties or registered parties or Groups or aghadi or front shall be calculated by first dividing the total number of Councillors by the total strength of members of the Committee. The number of Councillors of the recognized parties or registered parties or Groups or aghadi or front shall be further divided by the quotient of this division. The figures so arrived at shall be the relative strength of the respective recognized parties or registered parties or Groups or aghadi or front. The seats shall be allotted to the recognized parties or registered parties or Groups or aghadi or front by first considering the whole number of their respective relative strength so ascertained. After allotting the seats in this manner, if one or more seats remain to be allotted, the same shall be allotted one each to the recognized parties or registered parties or Groups or aghadi or front in the descending order of the fraction number in the respective relative strength starting from the highest fraction number in the relative strength, till all the seats are allotted:

Provided further that, for the purpose of deciding the relative strength of the recognised parties or registered parties or Groups under this sub-section, the recognised parties or registered parties or Groups, or elected Councillor not belonging to any such party or Group may, notwithstanding anything contained in the Maharashtra Local Authority Members' Disqualification Act, 1986 (Mah. XX of 1987), within a period of not more than one month from the date of notification of election results, form the aghadi or front and, on its registration, the provisions of the said Act shall apply to the members of such aghadi or front, as if it is a pre-poll aghadi or front.

(2C) If any question arises as regards the number of Councillors to be nominated on behalf of such party or Group, the decision of the Collector shall be final.

(4) The Chairman of every Subjects Committee (other than the Subjects Committee of which the Vice-President is to be the ex-officio Chairman) shall be elected by the members of that Committee at the meeting convened under sub-section (2):

Provided that, no Councillor shall be eligible to be the Chairman of more than one Subjects Committee.

18. On a plain reading of the aforesaid provisions, particularly Section 63(2B) of the Act, it is evident that, while nominating Councillors, the Collector is required to take into account the relative strength of the recognized parties, registered parties, Groups, Aghadis or Fronts and nominate members, as nearly as may be, in proportion to the strength of such parties or groups in the Council, after consulting the leader of each such party or group.

19. The proviso to Section 63(2B) prescribes the formula for determining the relative strength of the recognized parties, registered parties, Groups, Aghadis or Fronts. Once the relative strength of the respective recognized parties, registered parties, Groups, Aghadis or Fronts is computed in accordance with the proviso, the nomination of Councillors is required to be made on that basis. The seats are to be allotted to the recognized parties, registered parties, Groups, Aghadis or Fronts by first considering the whole number of their relative strength as so determined. Thereafter, if any seat remains to be allotted, the same is required to be allotted, one each, to the recognized parties, registered parties, Groups, Aghadis or Fronts in the descending order of the fractional component of their respective relative strength, commencing with the highest fraction and continuing until all the seats are allotted.

20. In the facts of the present case, the parties are ad idem that the relative strength of Gat/Group Nos. 1, 2 and 3 as enumerated in para 3(xi) has been correctly determined in accordance with the provisions of Section 63(2B) and the proviso thereto, and the applicable Rules. Consequently, the nomination of Councillors from the said Groups/Aghadis cannot be faulted.

21. However, insofar as Gat/Group No. 4, namely *Tumsar Shahar Vikas Aghadi*, is concerned, its relative strength has been determined at only 0.46. In view of the scheme of Section 63(2B) and the method prescribed for allotment of seats, such relative strength would not entitle Gat/Group No. 4 to secure nomination of a Councillor. This being the position, we are of the considered view that the action taken by Respondent Nos. 1 and 3 in the impugned communications dated 11th February 2026 and 12th February 2026 was justified and in accordance with law. The nomination of Councillors to the Tumsar Municipal Council made by Respondent No. 4, insofar as it is inconsistent with the mandate of Section 63(2B) of the Act, was therefore liable to be set aside. Consequently, a fresh process for nomination of eligible Councillors shall be undertaken strictly in accordance with the provisions of the Act and the Rules framed thereunder.

22. The parties are also ad idem on the issue that out of 10 nominations submitted the three councilors who have been selected in the meeting dated 16th January 2026 viz. Mr. Pramod Narayan Titirmare (Petitioner in Writ Petition No.2787 of 2026) Mr. Hitesh Dilip Chopkar and Mr. Shailesh Toluram Meshram, the nominations of Mr. Titirmare (Petitioner in Writ Petition No.2787 of 2026)

cannot be called into question as he belongs to Tumsar Rashtravadi Janhit Vikas Aghadi (Gat/Group No.3), which has relative strength as per provisions of Section 63(2B) of the Act. However, in respect of Mr. Hitesh Dilip Chopkar and Mr. Shailesh Toluram Meshram (Petitioner in Writ Petition No. 2788 of 2026) as they belong to Gat/Group Tumsar Shahar Vikas Aghadi, which does not have the relative strength as per the provisions of Section 63(2B) their nominations need to be set aside.

23. In view of the fact that the parties are ad idem that the nomination of Mr. Pramod Narayan Titirmare (Petitioner in Writ Petition No.2787of 2026), is valid and that of the other two Councillors i.e. Mr. Shailesh Toluram Meshram (Petitioner in WP No. 2788 of 2026) and of Mr. Hitesh Dilip Chopkar is invalid, we pass the following order which will meet the ends of justice:-

ORDER

1. The impugned letters/communication dated 11th February 2026 and 12th February 2026 are set aside to the extent that they hold the nomination of Mr. Titirmare (Petitioner in WP No. 2787 of 2026) is invalid
2. Insofar as the nominations of the other two councillors i.e. Mr. Shailesh Toluram Meshram (Petitioner in WP No. 2788 of 2026) and of Mr. Hitesh Dilip Chopkar are concerned, the impugned letters/communications dated 11th February and 12th February 2026 are upheld and respondents are directed to initiate fresh process of nomination of councillors as per provisions of Section 63(2B) of the Act read with the proviso thereto and the Rules within 3 weeks from the date this order is made available to the Respondents by the petitioners.
3. Writ Petition No.2788 of 2026 filed by Mr. Shailesh Toluram Meshram is dismissed whereas Writ Petition No. 2787 of 2026

filed by Mr. Pramod Narayan Titirmare stands disposed of in the
aforeaid terms. No costs.

4. All other interim applications, if any, also do not survive in view of
the aforesaid orders

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)