



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 38 OF 2003

Dist.: SANGLI

Shivaji Dashrath Khot]
Adult, residing at No. 1323, Peth Bhag,]
Sangli 416 416] ...Petitioner

Versus

1) Sangli, Miraj, Kupwad Cities]
Municipal Corporation,]
through its Commissioner, having its]
office at Municipal Office,]
Sangli 416 416]

2) State Election commission]
State of Maharashtra]
through its Commissioner,]
having his office at]
New Administrative Building,]
Opposite Mantralaya, Madam Cama Rd.,]
Mumbai 400 032]

3) The State of Maharashtra]
through the Secretary,]
Ministry of Urban Development]
Mantralaya, Mumbai 400 032] ...Respondents

Mr. Uday Warunjikar for the Petitioner

Mr. N.V. Walawalkar for Respondent No. 1

Mrs. P.S. Cardoza, Assistant Government Pleader, for the State.

**CORAM: BILAL NAZKI and
S.S. SHINDE, JJ.**

DATE: JUNE 19, 2008

ORAL JUDGMENT (Per Bilal Nazki, J.):-

This P.I.L. is misconceived, as the petitioner wants this Court to give a direction to respondent No. 3 to explain to this Court its intention regarding making of amendment in the Municipal Acts so as to disqualify a candidate in municipal election, who is held guilty of an offence under Section 171-I of the Indian Penal Code.

2. Counters have been filed in which it is stated that certain recommendations were made by the Election Commission as well as some official agency. Making a law or amending a law is an absolute prerogative of the Legislature, and this Court neither can ask the Legislature to amend a law or make a law. It cannot even ask the Legislature whether it intends to amend a law or not.

3. Learned counsel for the petitioner has also referred to *People' s*

Union for Civil Liberties (PUCL) & Anr. v. Union of India & Anr., (2003) 4 **S.C.C.** 399, *State of A.P. v. National Thermal Power Corporation Ltd. & Ors.*, (2002) 5 **S.C.C.** 206, and *State of U.P. & Ors. v. Jeet S. Bisht & Anr.* (2007) 6 **S.C.C.** 586. In none of these judgments, the Supreme Court has even suggested that the Courts in India can direct the Legislature to make a particular legislation or to make amendment to a particular legislation. Maybe, in certain judgments of the Supreme Court, certain directions have been given by the Supreme Court in its power under Article 141 of the Constitution, which can be characterised as legislative in nature, but at no point of time, the Supreme Court has ever given any direction to a State Legislature or to the Parliament to make a particular law or amend a particular law. In fact, in 2007 (6) **S.C.C.** 586, the Supreme Court has stated that the Courts, including the Supreme Court, have no power to direct the Legislature to make a particular legislation.

4. As such, no relief in this **P.I.L.** can be granted. It is dismissed.

BILAL NAZKI, J.

S.S. SHINDE, J.