

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

WPNO.5657/2015

904 WRIT PETITION NO. 5657 OF 2015

BALU PANDURANG DEOKAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Karpe Rahul R.
AGP for Respondent State: Mr. S.G.Karlekar.
Mr. N.V.Gaware, Advocate, for respondent no.6 as intervenor.

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CORAM : R. M. BORDE & P.R. BORA, JJ.
Dated: June 09, 2015

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PER COURT :-

1. The petitioners are seeking direction in respect of deletion of names of 17 voters enlisted at Sr.No.67 in the voters list on the ground that those voters enlisted in the final list of voters cease to be members of the Village Panchayat, Karjat, after inclusion of the village panchayat area into a smaller urban area i.e. after formation of Karjat Municipal Council.

2. It is the contention of the petitioner that the smaller urban area comprising of erstwhile village panchayat, Karjat, is formed by virtue of notification under provisions of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, on 7th of March, 2015, and after formation of urban area, the Village Panchayat, Karjat, ceases to exist. The members whose names are enlisted at Sr.No.67 in the final list, by virtue of their election as members of Karjat Village Panchayat, can no more claim their entitlement after dissolution of the Village

agp/-

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Panchayat and on conversion of the Village Panchayat into a smaller urban area.

3. An objection was raised by the petitioner in that regard has been turned down by the District Deputy Registrar. The reason recorded by the District Deputy Registrar for turning down the objection is that since the names of the members have been enlisted in the list as voters, considering the due date for preparation of the voters list being six months prior to the date on which election falls due, the objection raised by the petitioners does not deserve consideration.

4. After hearing the arguments advanced by the respective parties, including arguments advanced on behalf of the intervenor, we are of the opinion that the objection raised by the petitioner needs to be re-considered by the District Deputy Registrar, who has been delegated the powers to deal with the objections. The objections shall have to be dealt with as provided under Rule 36. Sub Rule 12 of Rule 36 empowers Collector, in the instant matter the District Deputy Registrar to entertain objection even after preparation of final list of voters. The names of members enlisted in the final list at Sr.No.67, are included since they are elected members of Karjat Village Panchayat. It is also not a matter of dispute that the Village Panchayat, Karjat, ceases to exist on formation of a smaller urban area, on issuance of notification on 7/3/2015 by the State Government under the

agp/-

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Municipalities Act. In view of provisions of Section 149 of the Bombay Village Panchayats Act, 1958, on any area ceasing to be a village panchayat under sub-section 4, the Panchayat shall be dissolved and all members of the Panchayat shall vacate the office as from the date on which such area has ceased to be a village Panchayat.

5. There is substance in the arguments advanced by the learned Counsel appearing for the petitioner that as on today, the members whose names are enlisted at Sr.No.67 in the list cease to be members of the village panchayat and by virtue of such cessation, it is doubtful as to whether they can represent the dissolved village panchayat and claim to be its members. Since they cease to be members of the Village Panchayat, they are ineligible to be member of Market Committee on and from the date of cessation of their membership. We are of the view that the issue raised before us needs to be reconsidered by the prescribed authority i.e. the District Deputy Registrar.

6. For the reasons set out above, we direct the District Deputy Registrar to re-consider the objection raised by the petitioner after extending opportunity of hearing to the petitioner and the interested parties as expeditiously as possible, preferably within a period of seven days from today.

agp/-

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With the directions as above, the writ petition stands disposed of.

(P.R. BORA, J.)

(R. M. BORDE, J.)

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