

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
15 WRIT PETITION NO. 8515 OF 2015

MANGALASING PANDIT RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. Ubale Mahesh B.
AGP for Respondents: Mrs. A.V. Gondhalekar
Advocate for Respondent No.2 : Mr. S.T. Shelke
...

CORAM : R. M. BORDE & P.R. BORA, JJ.
Dated: August 19, 2015
...

PER COURT :-

1 The petitioner is praying for issuance of directions to the respondents to conduct elections to the vacant posts of Members from ward No.2 of village Panchayat Ghanegaon Tanda - Muriti, Tq. Soyagaon. Petitioner contends that, the village Panchayat consists of 11 members and out of total membership of 11, eight members have already been elected during the general elections held by the State Election Commission in the month of August, 2015. The petitioner contends that since elections to three seats from ward No.2 are required to be held and there is no return candidate from the said ward, directions need to be issued for postponement of elections of Sarpancha and Upasarpancha.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

2 Request of the petitioner made in the instant petition need not be considered, in view of provisions of Section 10(4) as well as Section 28(1)(i) of the Maharashtra Village Panchayat Act. Section 10(4) stipulates that, "Notwithstanding anything in sub-section (1) where two-thirds or more of the total number of members required to be elected under sub-clause (i) of clause (a) of sub-section (i) are elected, failure to elect the remaining members shall not affect constitution of the Panchayat". The reasonable inference that can be drawn on the basis of this provision is that village panchayat is constituted on election of 2/3rd or more of the total of the required number of members. In the instant matter, out of 11 posts of members, eight members have already been elected as such, the village Panahayat is constituted in accordance with section 10(4) of the Act.

3 Section 28 of the Act lays down a mandate to the Collector to hold first meeting of the Panahayat where under the elections of Sarpancha and Upasarpancha are required to be held. The first meeting shall be held

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

after the general elections, not later than the date immediately following the date of expiry of the terms of outgoing members. The Collector is expected to follow the mandate of section 28(1) & (i) of the Act and prescribe the date of the first meeting of Panchayat

4 In view of above, no inference is called for in the instant petition. Petition is devoid of substance and hence stands rejected.

(P.R. BORA, J.)

(R. M. BORDE, J.)