

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO. 10215 OF 2015

1 Suhas s/o Trimbakrao Shirsath
 age 42 years, occ. Agril,
 r/o Phulambri, Tq. Phulambri
 Dist. Aurangabad.

2 Bhanudas s/o Ramdas Nagare
 age 32 years, occ. Agril.
 r/o Phulambri, Tq. Phulambri,
 Dist. Aurangabad.

.. PETITIONERS

VERSUS

1 The State of Maharashtra
 Through the Secretary
 Urban Development Department,
 Mantralaya, Mumbai 32.

2 The State Election Commission
 Maharashtra State, Mumbai
 Through its Secretary

3 The Divisional Commissioner,
 Aurangabad Division, Aurangabad.

4 The District Collector,
 Aurangabad, Dist. Aurangabad.

5 Nagar Panchayat Phulambri
 Tq. Phulambri, Dist. Aurangabad
 Through its Chief Officer.

6 The Administrator
 Nagar Panchayat Phulambri
 Tq. Phulambri, Dist. Aurangabad.

7 Grampanchayat Panwadi
 Tq. Phulambri, Dist. Aurangabad
 Through its Gramsevak.

8 Rajendra s/o Gangadhar Thombre
 age 50 years, occ. Business
 r/o Phulambri, Tq. Phulambri
 Dist. Aurangabad.

9 Abdul Rauf s/o Abdul Majid Qureshi

age 40 years, occ. Business
r/o Phulambri, Tq. Phulambri
Dist. Aurangabad.

.. RESPONDENTS

Mr. K.F. Singare, advocate for petitioners.
Mr. P.S. Patil, AGP for the State.
Mr. S.T. Shelke, advocate for respondent no. 2.
Mr. A.N. Nagargoje, advocate for respondent no. 5.
Mr. S.B. Solunke, advocate for respondent no. 7.
Mr. S.S. Thombre, advocate for respondents 8 and 9.

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CORAM : R.M. BORDE &

P. R. BORA, JJ.

DATE : 28th OCTOBER, 2015.

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Heard.
2. Rule. Rule made returnable forthwith. With the consent of the parties, petition is taken up for final disposal at admission stage.
3. Petitioners are praying for issuance of directions to respondents to finalise ward formation for the purpose of holding elections to Nagar Panchayat Phulambri in consonance with the directives contained in letter dated 04.08.2015 and to conduct elections of Nagar Panchayat within specified time.
4. It is not a matter of dispute that village Panwadi and Phulambri together constituted rural area and was a Group Gram Panchayat before formation of smaller urban area of Phulambri village. It is informed that by virtue order issued by the State Government in the month of August 2015, village Phulambri has been declared as a smaller urban area and the Group Gram Panchayat constituted of two villages i.e. Phulambri and Panwadi

ceases to exist. After conversion of village Phulambri in the urban area, village Panwadi is declared as separate Gram Panchayat under the provisions of Maharashtra Village Panchayat Act. It is informed that some part of village Panwadi is nearer to urban area of Phulambri and the Tahsil office and other offices which are required to be stationed at Taluka Head Quarter, are stationed within the revenue village boundary of village Panwadi. The Divisional Commissioner, while declaring preliminary notification in respect of formation of ward, included part of area consisting of revenue village Panwadi treating it to be part of the smaller urban area i.e. Phulambri. The mistake that occurred in formation of wards is stated to have been corrected and the area falling within the revenue boundary of village Panwadi has been deleted. Petitioner makes a grievance that infact the area falling within the revenue village Panwadi which is nearer to the urban area of Phulambri shall have to be included in the urban area and necessary procedural formalities are required to be undertaken by the State Government.

5. Learned AGP for the State has placed on record affidavit on behalf of respondent no. 4. It is recorded in the affidavit that the State Government has considered the proposal in respect of inclusion of part of the area within the revenue village Panwadi, in the similar urban area consisting of Phulambri. It is also informed that after completing necessary procedural formalities, part of rural area which is nearer to the urban area of Phulambri shall have to be included in Nagar Panchayat Phulambri. Learned AGP for the State informs on instructions that about three months

time would be required for completing the procedural formalities and publication of final notification by the State Government in that regard.

6. It is pointed out that smaller urban area for Phulambri is declared on 10.08.2015 and the State Election Commission is obliged to conduct election for the said smaller urban area, within a period of six months from the date of its formation. Considering the facts and circumstances of the case, we direct respondents State authorities to take appropriate steps in respect of inclusion of part of area comprising of revenue village Panwadi into the urban area comprising of Phulambri, as expeditiously as possible, preferably within a period of two months from today. On publication of final notification in that behalf by the State Government, the State Election Commission shall take appropriate steps and re-arrange the wards for the purpose of holding elections to Phulambri urban area. The Election Commission may carry out further stages of election after final declaration in respect of inclusion of part of rural area comprising of village Panwadi into the urban area of village Phulambri. The State Government is expected to take decision in the matter in respect of inclusion of part of rural area comprising of village Panwadi into the urban area of village Phulambri in observance of the procedure prescribed in law. Rule made absolute accordingly. In the facts and circumstances of the case, there shall be no order as to costs.

(P.R. BORA)

JUDGE

dyb

(R. M. BORDE)

JUDGE