

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

WRIT PETITION NO. 11758 OF 2015

Laxman s/o Narayan Shelke

.. PETITIONER

VERSUS

The State of Maharashtra
& others

.. RESPONDENTS

Mr. S.S. Choudhary, advocate for petitioner.
Mr. A.B. Girase, GP for the State.

=====

**CORAM : R.M. BORDE &
A.I.S. CHEEMA, JJ.
DATE : 5th DECEMBER, 2015.**

PER COURT :

1. Petitioner is objecting for prescription of reservation by draw of lots in favour of OBC Women category in respect of the office of Sarpanch of Village Panchayat Lasara.

2. It is the contention of petitioner that reservation was earlier prescribed for the category of Scheduled Caste Women and, since no elected member from the aforesaid category was elected, the Tahsildar has convened a meeting and invited certain members and residents of the village and has drawn lots and, as in pursuance to draw of lots, reservation has been prescribed in favour of OBC Women category.

3. We do not find any irregularity in the action of the Tahsildar. Rule 2(a) (4-A) of the Bombay Village Panchayats (Sarpanch and Upa-Sarpanch) Election Rules, 1964 provides that if any office of the Sarpanch is reserved

for the Scheduled Castes, or the Scheduled Tribes or, as the case may be, the category of Backward Class of citizens and no elected member belonging to such castes, Tribes or as the case may be, the category of Backward Class of citizens is available, then such office for the same tenure shall be allotted by draw of lots to any of the categories for which the office of the Sarpanch may be reserved under Section 30 of the Act. Second proviso to sub-rule 4-A of rule 2(a) provides that in the event the office of Sarpanch is reserved for women member belonging to the Scheduled Castes or Scheduled Tribes or, as the case may be, the category of Backward Class of citizens and no elected women member belonging to such Castes or Tribes or as the case may be, the category of Backward Class of citizens, is available then the office of the Sarpanch, for the same tenure shall be treated as reserved for Scheduled Caste category if originally same was reserved for women belonging to Scheduled Caste, if favour of Scheduled Tribe category if originally same was reserved for women belonging to Scheduled Tribe category and, in favour of Backward Class citizens if the same was originally reserved for women belonging to Backward Class of citizens.

4. In the instant matter, it has been pointed out that not a single candidate belonging to Scheduled Caste category is elected and as such, in view of sub-rule 4-A of Rule 2(a) of the Rules of 1964, the office shall have to be reserved for reserved category as provided under section 30 of the Act, by draw of lots. In the instant matter, the Tahsildar has proceeded to draw lots in observance of the procedure prescribed under the rules. The main objection of petitioner is that the Tahsildar has selectively invited only few

members and some residents of the village, which procedure is irregular. We do not find any substantive illegality in the alleged action of the Tahsildar warranting quashment of the decision. In exercise of extra ordinary jurisdiction under Article 226 of the Constitution of India, no interference is called for in the instant petition. Petition is devoid of substance hence stands dismissed.

(A.I.S. CHEEMA)
JUDGE

(R. M. BORDE)
JUDGE

dyb