

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO.3458 OF 2014

(Sau. Somkali Shriram Darshimbe ..vs.. Sau. Samoti Ramdeo Jawarkar and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 16-11-2015

Heard Shri V.S. Giramkar, learned Advocate for the petitioner and Shri A.K. Bangadkar, learned Assistant Government Pleader for the respondent Nos.2, 3, 11 and 12.

2. The respondent No.3/Naib-Tahsildar in his capacity as the Presiding Officer for election of *Sarpanch*, had issued the notice dated 17-09-2013 to the members of the Gram-Panchayat informing them that the elections for the post of *Sarpanch* of the Gram-Panchayat were to be held on 20-09-2013. The elections were held accordingly and the petitioner was declared elected as *Sarpanch* of the Gram-Panchayat. The respondent No.1 challenged the election of the petitioner on the ground that the election was vitiated for non-compliance of the mandatory provisions of Rule 4 of the Maharashtra Village Panchayats (Sarpanch and Up-Sarpanch) Elections Rules, 1964. The learned Additional Collector, by the order dated 13-12-2013, dismissed the application filed by the respondent No.1. The respondent No.1 filed

appeal before the learned Commissioner, challenging the order passed by the learned Additional Collector. The learned Commissioner, by the order dated 19-04-2014, has allowed the appeal, set aside the order passed by the learned Additional Collector and has held that the elections held on 20-09-2013 for the post of Sarpanch of the Gram-Panchayat, is invalid. The petitioner being aggrieved by the order passed by the learned Commissioner, has filed this writ petition.

3. The learned Advocate for the petitioner has submitted that the notice issued by the respondent No.3 was served on all the eight members of the Gram-Panchayat on 17-09-2013 and therefore, all the eight members of the Gram-Panchayat had notice about the meeting scheduled on 17-09-2013 itself and as the elections were held on 20-09-2013, all the eight members of the Gram-Panchayat had three clear days' notice about the date of election.

4. The Division Bench of this Court in the judgment given in the case of ***Murlidhar Bhaiyaji Kapgate and others vs. Krishna Jairamji Meshram and others*** reported in ***1991(2) Mh.L.J. 897*** has held that the provisions of Rule 4 of the Maharashtra Village Panchayats (Sarpanch and Up-Sarpanch) Elections Rules, 1964 are mandatory and the non-compliance of the above mentioned rule vitiates the election. It is held by

the Division Bench of this Court that the election would be vitiated for non-compliance of Rule 4 of the Maharashtra Village Panchayats (Sarpanch and Up-Sarpanch) Elections Rules, 1964 even if all the members of Gram-Panchayat attended the meeting. Considering the proposition laid down by the Division Bench of this Court, the submission made on behalf of the petitioner cannot be accepted. I see no reason to interfere with the impugned order.

5. The writ petition is dismissed. In the circumstances, the parties to bear their own costs.

JUDGE

pma