

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4064/2015

Bhojraj Ganpat Sorede

...Versus...

State of Maharashtra, Department of Urban Development, Mantralaya, Mumbai
and others

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

Court's or Judge's orders

Shri Alok Daga, Advocate for petitioner
Shri D.M. Kale, AGP for respondent nos.1 to 3
Shri J.B. Kasat, Advocate for respondent no.6

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATE : 28.08.2015

By this petition, the petitioner seeks a direction to the respondent nos.1 to 3 to declare that the Gram Panchayat, Sindewahi be incorporated as the Nagar Panchayat, Sindewahi. The petitioner seeks a stay of the elections to the Gram Panchayat, Sindewahi.

According to the petitioner, the Gram Panchayat, Sindewahi was desirous of being incorporated as Nagar Panchayat, Sindewahi. A Resolution was passed in that regard and the same was sent to the Government for taking appropriate action. According to the petitioner, the draft notification for conversion of Gram Panchayat, Sindewahi into Nagar Panchayat, Sindewahi was issued and hence, it would be necessary to stay the elections to the Gram Panchayat, Sindewahi. According to the

petitioner, if the election to the Gram Panchayat, Sindewahi is conducted, it would cause a loss to the public exchequer.

The respondent no.3 – Divisional Commissioner has filed an affidavit-in-reply. It is stated that the process of declaring the Gram Panchayat, Sindewahi as Nagar Panchayat, Sindewahi is not concluded by the State Government and the same is under consideration. It is stated that the procedure for conversion of the Gram Panchayat, Sindewahi into Nagar Panchayat, Sindewahi is in progress. It is stated that the said process may take some time and it would therefore not be possible to postpone the elections to the Gram Panchayat, Sindewahi till the final notification in respect of the conversion is passed.

Shri Kasat, the learned Counsel for the respondent no.6 states that the draft notification has been issued long back i.e. in the Month of May, 2014 and there is no progress in the matter since one year. It is stated that in this background since the term of office of the Members of Gram Panchayat, Sindewahi would expire on 7.9.2015, it would be necessary to hold the elections. It is stated that the elections cannot be postponed indefinitely on the pretext that the matter in regard to conversion of the Gram Panchayat, Sindewahi into Nagar Panchayat, Sindewahi is in progress.

Since the respondent no.3 has stated on affidavit that the matter in respect of conversion of Gram Panchayat, Sindewahi into Nagar Panchayat, Sindewahi is in progress, the first prayer made in the writ petition stands substantially granted. It would be for the State Government to take a decision in the matter in accordance with law. It appears that the petition has been filed mainly with a view to stall the elections to the Gram

Panchayat, Sindewahi though the term of office of the Members of Gram Panchayat, Sindewahi is about to expire on 7.9.2015. The elections cannot be postponed indefinitely merely because the matter in respect of conversion of Gram Panchayat, Sindewahi into Nagar Panchayat, Sindewahi is under active consideration of the State Government. The respondent no.3 has clearly stated in the affidavit-in-reply that the elections cannot be stayed for these reasons.

In view of the aforesaid, we dispose of the writ petition with no order as to costs. It is made clear that the respondents would be free to conduct the elections to the Gram Panchayat, Sindewahi.

Steno copy of this order is granted.

JUDGE

JUDGE

Wadkar