

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5682/2015

(SANAULLA KHAN HABIB KHAN & OTHERS **VERSUS** THE DIVISIONAL COMMISSIONER,
 AMRAVATI & OTHERS)

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

Court's or Judge's orders

Shri S.D. Chopde, counsel for the petitioners.
 Shri D.B. Patel, A.G.P. for the R-1 to 3.
 Shri J.B. Kasat, counsel for the R-4.

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

DATE : OCTOBER 12, 2015.

By this petition, the petitioners seek a direction to the respondent no.1-Divisional Commissioner, Amravati to take a decision in accordance with Section 145 of the Maharashtra Village Panchayats Act, 1958, for the dissolution of the panchayat. The petitioners seek an order restraining the respondents from holding the elections of the Gram Panchayat, Dhotra (Shinde).

The six petitioners were elected as the members of Gram Panchayat Dhotra. The Gram Panchayat consisted of nine members. The petitioners tendered their resignation in view of the alleged inaction on the part of the Sarpanch and two other members in performing the duties of the panchayat. After the acceptance of the resignation of the petitioners, six seats of members in the Gram Panchayat became vacant. According to the petitioners, it was necessary for the State Government to dissolve the panchayat in view of the provisions of Section 145 of the Maharashtra Village Panchayats Act, 1958. It is stated that the State Government should be directed to order the dissolution of the panchayat under Section 145(1-A) of the Act of 1958.

On hearing the learned counsel for the parties and on a perusal of the provisions of Section 145 of the Act of 1958, it appears that the relief sought by the petitioners cannot be granted. It is not necessary for the State Government to dissolve the panchayat if more than half of the total number of seats in a panchayat become vacant. The State Election Commission has decided to conduct the election to the six seats of the Gram Panchayat that have fallen vacant due to the resignation tendered by the petitioners. The respondent nos.3 and 4 have declared the election to the six posts of members in Gram Panchayat Dhotra (Shinde). Nothing has been pointed out on behalf of the petitioners to show that it would be mandatory for the State Government to dissolve the panchayat if more than half of the total number of seats in a panchayat fall vacant and it would not be possible for the State Government or the respondent nos.3 and 4 to direct the holding of fresh elections to the panchayat.

In the circumstances of the case, we dismiss the writ petition with no order as to costs.

JUDGE

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