

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

WRIT PETITION NO. 2630 OF 2016

Sangita W/o Ramesh Dahibhate .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Popat P. More, Advocate for the Petitioner.
Smt. M. A. Deshpande , A.G.P. for Respondent Nos. 1 to 3.
Shri Shrikrishna B. Solanke, Advocate for the Intervenor.

**CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.
DATE : 30TH MARCH, 2016.**

PER COURT :

. Mr. More, the learned counsel submits that post of Sarpanch of village panchayat Dhonara (Bk.) is reserved for a person from S. T. category. However, no person belonging to S. T. category has been elected as a member of the said panchayat. The said post of Sarpanch since the year, 2012 is vacant. Even draws were held, but no election has been conducted for the post of Sarpanch. According to the learned counsel as per Rule 4 (A) of the Bombay Village Panchayat (Sarpanch and Upsarpanch Election) Rules, if there is no candidate belonging to the caste for which the post of Sarpanch is reserved, then the draw has to be

conducted in respect of categories for which the post of Sarpanch may be reserved U/Sec. 30 of the Maharashtra Village Panchayat Act. The learned counsel submits that, the elections for the post of Sarpanch are required to be held.

2. We have heard Mrs. Deshpande, the learned A. G. P. for the Respondents/ State.

3. Mr. Solanke, the learned counsel for the intervenor opposes the petition and submits that the intervenor is officiating as incharge Sarpanch being a Upa-sarpanch since one month. The petition is filed after four years of the post being vacant. One of the person has also filed an election petition. The writ petition may not be entertained.

4. We have considered the submissions. Rule (4-A) of the Bombay Village Panchayat (Sarpanch and Upa-sarpanch Election) Rules reads as under :

**THE BOMBAY VILLAGE PANCHAYAT
(SARPANCH AND UPA-SARPANCH)
ELECTION RULES, 1964**

1.

(4-A) Notwithstanding anything contained in these rules, if the 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 (including *Vimukta Jatis* and Nomadic Tribes), and no elected member belonging to such Cases, 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 Sarpanch may be reserved under Section 30 of the Act.

5. It is not disputed that, the post of Sarpanch for the said gram panchayat is reserved for the Scheduled Tribe category. It is also not disputed that there is not a single member elected to the panchayat from the Scheduled Tribe category. In such case Rule 4(A) as referred to above would be applicable. The respondent/Authorities are required to adhere to the said rule and conduct the elections of the Sarpanch expeditiously for the remaining term.

6. It is submitted that even the draws have been held. Considering the above, the respondent/authorities shall hold the election of the Sarpanch for Gram Panchayat Dhanora (Bk.) expeditiously and preferably within a period of three (3) months from today. The writ petition is disposed of. No costs.

[K. K. SONAWANE, J.]

[S. V. GANGAPURWALA, J.]