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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3166 OF 2016

Yatin Ganpat Lokhande	 Petitioner.
V/s.	
State of Maharashtra and ors	 Respondents

Mrs. Neeta Karnik, for the Petitioner.

Mr. S. B. Shetye, for respondent No.1.

Mr. V. M. Mali, A.G.P., for the Respondent-State.

**CORAM : RANJIT MORE &
DR. SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 22nd MARCH, 2016.

P.C. :

1. Heard Mrs. Neeta Karnik, the learned counsel appearing for the petitioner, Mr. S. B. Shetye, the learned counsel appearing for respondent No.2 and Mr. Mali, learned AGP appearing on behalf the State.

2. By this petition, the petitioner is challenging the allotment and rotation of the Seats allotted to the candidates belonging to OBC and Open categories. Mrs. Karnik, the learned counsel for the petitioner

placed on record a comparative chart showing allotment of Seats for the election held in the year 2011 and for the election now declared in this year and pointed out that the rotation of the Seats reserved for OBC Female candidates, is not in accordance with the provisions of the Bombay Village Panchayat (Number of Members Divisions into Wards and Reservation of Seats), Rules 1966.

3. Mr. Shetye, the learned counsel appearing for the Election Commission, on the contrary opposes the petition vehemently and submits that allotment as well as rotation of Seats is done correctly in accordance with the above rules.

4. We are concerned with the election programme declared in respect of election of Village Panchayat Manor, Taluka and District : Palghar. There is no dispute that the Village Panchayat Manor is divided into six Wards and there are in all 17 Seats. Out of 17 Seats, 9 Seats are allotted to ST, one Seat is allotted to SC, two Seats are allotted to OBC and 5 Seats are allotted to Open category. Out of Seats allotted to OBC, one is reserved for Female. In the election of 2011, out of five Open Seats, two Seats were allotted to the Female and in the election programme declared in this year, 3 Seats are allotted to the Female from Open category. In the election of 2011, from Ward No.2 - one Seat was allotted to Female OBC and from Ward No.4- one Seat was allotted to

OBC Male. In the year 2016, as per rotation, Seat allotted to OBC Male is shifted to Ward No.3 and Seat allotted to OBC Female is shifted to Ward No.5. So far as Open category candidates are concerned, in the year 2011, one Seat each was allotted to this category from Ward Nos 5 and 6 respectively. In the year 2011, so far as Females from Open category are concerned, one Seat each was allotted to this category from ward Nos 5 and 6. In the ensuing election programme of 2016, one Seat each from Ward Nos 1, 3 and 5 has been allotted to the Female. So far as Open Male category is concerned, one Seat each is allotted to them from Ward Nos. 5 and 6.

5. The above position makes it clear that the Seats allotted to particular categories in the year 2011 are rotated in the ensuing election programme of 2016. As per the Rules, the Election Commission is obliged to ensure that there is no repetition of the reservation in the same wards and these Seats are required to be rotated. The submission of Mrs. Karnik, learned counsel for the petitioner in this regard that rotation must be clockwise or serially, cannot be accepted in the absence of any express provision in the said rules.

6. Even otherwise the election programme has already been declared and acceptance of nomination is scheduled to take place from

29th March, 2016 to 2nd April, 2016. The withdrawal of nomination forms is scheduled on 7th April, 2016.

7. In the above circumstance, we are not inclined to entertain this petition. The petition, therefore, is dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]