

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 737 OF 2017
(Abedabi Babumiyan Lamjane and others Vs. The State of Maharashtra and others)

Mr. N.P. Patil-Jamalpurkar, Advocate for the Petitioners
Mrs. A.V. Gondhalekar, A.G.P. for the respondent/State

CORAM : V.M. KANADE AND
SANGITRAO S. PATIL, JJ.

DATE : 23rd January, 2017

PER COURT :

Heard.

2. The grievance of the petitioner is that there were in all seventeen members of the Village Panchayat of Village Kasar-Sirshi, who were duly elected in the elections held in 2015. It is an admitted position that one lady member namely Vijaya Hebade expired on 26th November, 2016. As provided under section 10 of the Maharashtra Village Panchayat Act, 1959, a report has to be submitted to the Collector so that he can hold elections for filling up the vacancy which has arisen on account of death of the member. This report has already been submitted to the Collector. The grievance of the petitioner is that no steps have been taken by the

Collector in respect of filling up the vacancy which has arisen due to death of the above referred lady member.

3. On the other hand, the learned A.G.P., representing the State, has invited our attention to the order dated 20th January, 2017, passed by the learned Single Judge in Writ Petition No. 11178/2016. By the said order, the learned Single Judge was pleased to grant interim stay in terms of prayer clause (C) and stayed the election to the post of Sarpanch.

4. It appears that as a result of above, two vacancies have arisen, one of Sarpanch and another of the lady member. In our view, it is not necessary to go into the controversy regarding appointment/election to the post of Sarpanch. However, since one vacancy has arisen due to death of lady member of the Village Panchayat, that can be filled in as per the procedure laid down in the relevant rules and in accordance with law.

5. Accordingly, the Writ Petition is disposed of by directing the Collector, Latur to fill up the vacancy of Member of Village Panchayat, Kasar-Sirshi, which has

arisen on account of the death of the lady member, as quickly as possible. It is clarified that we have not passed any order in respect of election of the Sarpanch since the matter is already pending before the learned Single Judge. So far as other prayers in the petition, those are not pressed into service and hence, no order is passed in respect of those prayers. All contentions of all parties are kept open. The Writ Petition stands disposed of.

[SANGITRAO S. PATIL]
JUDGE

[V.M. KANADE]
JUDGE

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