

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

WRIT PETITION NO.404 OF 2017

Amar Marutirao Naikwade ..Petitioner

Vs.

The State of Maharashtra
and anr. ..Respondents

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Mr.V.D.Sapkal , Advocate i/b. Mr.Sayyed Tauseef
Yaseen, Advocate for petitioner

Mr.V.M.Kangne, AGP for respondents

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**CORAM : V.M. KANADE AND
SANGITRAO S. PATIL, JJ.
DATE : JANUARY 12, 2017**

PER COURT :

Heard the learned Counsel for the
petitioner and the learned AGP for the
respondents.

2. The grievance of the petitioner is that a
meeting was fixed for election of Vice President
of Municipal Council, Beed on 10.01.2017, however,
it was cancelled as the President was absent. It

is submitted that though Rule 3 of the Maharashtra Municipal Councils (Conduct of Election of Vice President) Rules, 2005 ("the Rules", for short) contemplates that if a meeting is fixed for the election of Vice President, it shall not be cancelled or adjourned.

3. Our attention is invited to Rule 5 of the Rules, which contemplates that in case the office of President is vacant or the President is unable to attend the meeting, such meeting shall be presided over by the Collector or such officer as the Collector may nominate specially in this behalf. It is submitted that this procedure has not been followed by the Collector.

4. The learned AGP for the respondents seeks time to take instructions.

5. It is settled position in law that the first meeting for the purpose of election of

President has to be held and after the President is elected, within 25 days and in the first general meeting, Vice President has to be elected. In this meeting, the President should preside over the functions of the meeting.

6. Rule 5 provides that for some reasons, if the President is unable to attend the said meeting, then the Collector shall preside over the meeting. It appears that this procedure has not been followed and the meeting was cancelled.

7. We, therefore, direct the Collector to take appropriate steps as per the provisions of Rule 5 of the Rules and after giving three days notice, within a week hold a meeting for the election of Vice President and on that day, if the President is not present or is unable to attend the meeting, the Collector shall preside over the meeting and ensure that the election for the post of Vice President is held.

8. With these directions, the Writ Petition stands disposed of.

9. The parties to act on authenticated copies of the order.

[SANGITRAO S. PATIL, J.]

[V.M. KANADE, J.]

kbp