

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10040 OF 2017

Appasaheb s/o Digambar Sale

Petitioner

Versus

The State of Maharashtra
& others

Respondents

Mr. R.V. Gore, advocate for petitioner.
Mr. S.G. Karlekar, A.G.P. for respondents.

**CORAM : R.M.BORDE &
S.M. GAVHANE, JJ.**
DATE : 8th AUGUST, 2017

PER COURT:

1. Petitioner is questioning decision of the Collector to convene the meeting for election of Sarpanch of Village Panchayat Pandharpur, Tq. & Dist. Aurangabad, without filling up the vacancy of one member created on account of resignation of the outgoing Sarpanch. It is the contention of petitioner that in view of section 11 of the Maharashtra Village Panchayat Act, 1958, it is the responsibility of the State Election Commission to fill in the vacancy occurred in the Village Panchayat.

2. The State Election Commission is expected to take steps for filling up the vacancy however, the vacancy created on account of resignation of the outgoing Sarpanch created on account of resignation of the outgoing Sarpanch. However, failure thereof shall not create any bar for election the new Sarpanch. Senction

43 of the Maharashtra Village Panchayat Act, 1958 mandates filling up of such vacancy and, in view of sub-section 2 of section 43, it is the responsibility of the Collector to hold a meeting for election of Sarpanch in the manner as prescribed in sub-section 1 of section 43. It must be noticed that in view of sub-section 4 of section 10, the Village Panchayat shall be deemed to have been duly constituted on election of 2/3rd or more of the total number of members required to be elected and, in the instant case, since the Village Panchayat is duly constituted, there is no bar for filling up the vacancy of Sarpanch. Writ petition is devoid of substance hence stands rejected.

(S.M. GAVHANE)
JUDGE

(R.M.BORDE)
JUDGE

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