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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11171 OF 2016**

Shri. Balasaheb Arjunrao Hagwane	... Petitioner
Vs.	
The Election Commission & Ors.	... Respondents

**WITH
CIVIL APPLICATION NO.1186 OF 2017**

Shri. Rajshekhar Ashokrao Gaikwad and Ors.	... Applicants
<u>In the matter between</u>	
Shri. Balasaheb Arjunrao Hagwane	... Petitioner
Vs.	
The Election Commission & Ors.	... Respondents

**WITH
CIVIL APPLICATION NO.84 OF 2017**

Shri. Rajendra Baban Tambe and Ors.	... Applicants
<u>In the matter between</u>	
Shri. Balasaheb Arjunrao Hagwane	... Petitioner
Vs.	
The Election Commission & Ors.	... Respondents

**WITH
CIVIL APPLICATION NO.2739 OF 2016
IN
WRIT PETITION NO.1356 OF 2016**

The Secretary to the Government, Urban Development Department and Ors.	... Applicants
<u>In the matter between</u>	

Shri Shrirang Eknath Chavan Patil ... Petitioner
Vs.
Grampanchayat, Mhalunge and Ors. ... Respondents

**WITH
CIVIL APPLICATION NO.2738 OF 2016
IN
WRIT PETITION NO.7301 OF 2016**

The State of Maharashtra ... Applicant
In the matter between
Sandeep Bhanudas Tupe ... Petitioner
Vs.
The State of Maharashtra and Ors. ... Respondents

Mr. Surel Sunil Shah for the Petitioner in WP/11171/2016.
Mr. Sandeep S. Salunkhe for the Petitioner in WP/1356/2016.
Mr. Sudhin V. Sadavarte for the Petitioner in WP/7301/2016.
Mr. Tanaji Mhatungade for the Applicants in CAW/84/2017.
Mr. Ravindra S. Pachundkar for the Applicants in CAW/1186/2017.
Mr. Abhijit P. Kulkarni for the Respondent No.2 in all WPs.
Ms. D.S. Mondkar – Hule i/by Mr. S.B. Shetye for the Respondent No.3.
Mr. N.P. Deshpande, Addl. G.P. For the Applicants in CAW/2739/2016
and CAW/2738/2016 for Respondent Nos.4 and 5 in WP/7301/2016
and WP/1356/2016.
Mr. A.I. Patel, Addl. G.P. for the Respondent Nos.4 and 5 in
WP/11171/2016.
Mr. Anish Parshurane, Deputy Secretary, Urban Development
Department.

**CORAM : A.S. OKA &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 12th JUNE, 2017

P.C.

1 Writ Petition Nos.1356 of 2016 and Writ petition No.7301 of 2016 were filed for similar relief. In exercise of the powers under Section 3 of the Maharashtra Municipal Corporations Act, 1949 (for short “the Municipal Corporations Act”), a notification was published on 29th May, 2014 by the Urban Development Department of the Government of Maharashtra. By the said notification, a draft notification was published for the purpose of altering the limits of the Pune Municipal Corporation by adding certain villages in the limits of the said Corporation. In both the aforesaid Writ Petitions, a direction was sought against the State to declare final notification on the basis of the notification dated 29th May, 2014 providing for inclusion of 34 revenue villages within the limits of the Municipal Corporation.

2 When Writ Petition No.1356 of 2016 was listed before a Division Bench of this Court on 8th July, 2016, a letter of the same date addressed by the Deputy Secretary of the Government of Maharashtra in Urban Development Department was placed on record in which it was stated that process of taking appropriate decision was in progress and therefore, time of three months should be sought from the Court for taking appropriate final decision. Accordingly, by separate orders, Writ Petition Nos.1356 of 2016 and 7301 of 2016 were disposed of by recording the stand taken by the State Government that the decision

will be taken within three months. The Petitions were disposed of by recording an expectation that the decision will be taken in terms of letter dated 8th July, 2016.

3 Writ Petition No.11171 of 2016 was essentially filed making a grievance about the failure of the State Government to take a decision on the basis of the said notification and for postponing the elections of the Pune Municipal Corporation and Pune Zilla Parishad as well as elections of 34 village Panchayats which are the subject matter of the notification dated 29th May, 2014. On 4th May, 2017 a communication dated dated 4th May, 2014 issued by the Deputy Secretary of the Urban Development Department was tendered by the learned AGP. In terms of the statements made in the said communication, it was recorded that the Court expects the State to take early decision on the subject.

4 Even as of today, the State Government has not taken any decision. It is true that considering the nature of power exercised by the State Government under Section 3 of the Municipal Corporations Act, a writ of mandamus cannot be issued directing the Government to take a decision in particular manner. But, the State Government is under an obligation to take appropriate final decision after considering the

objections and suggestions received on the basis of the notification of 29th May, 2014 in a reasonable time. Unfortunately, the State Government has not taken any final decision for more than three years. Today, when the matters were called out in the morning session, a letter dated 12th June, 2017 addressed by the Section Officer of the Urban Development Department to the learned Government Pleader was tendered. It is taken on record and marked as 'Y1' for identification. It is stated that the report of the Divisional Commissioner, Pune has been called for which was not received and therefore, time of three months should be sought from the Court. In the afternoon session, it is pointed out that on 9th June, 2017 a report was submitted by the Divisional Commissioner, Pune Division which was received today. The learned AGP on instructions of Mr. Anish Parshurane, Deputy Secretary, Urban Development Department states that the State Government shall take final decision on the basis of notification dated 29th May, 2014 within a period of three weeks from today. We accept the said statement as the undertaking of the State Government.

5 In view of the aforesaid statement, it is not necessary to entertain Writ Petition No.11171 of 2016. We, however, make it clear that if any breach is committed by the State Government of the solemn assurance given to the Court to take final decision within three weeks

from today, appropriate action will have to be initiated against the State Government.

6 Therefore, we pass the following order :-

ORDER

- (i) We accept the statement made by the learned AGP on instructions of Mr. Anish Parshurane, Deputy Secretary, Urban Development Department that now the report of the Divisional Commissioner, Pune has been received and appropriate final decision will be taken by the State Government on the basis of notification dated 29th May, 2014 within a period of three weeks from today. The statement is accepted as an undertaking of the State Government;
- (ii) By accepting the aforesaid statement, Writ Petition No.11171 of 2016 is disposed of;
- (iii) In view of disposal of the Petition, Civil Application Nos.1186 of 2017 and 84 of 2017 do not survive;
- (iv) In view of the aforesaid statement which is accepted by the Court as undertaking, Civil Application No.2738 of 2016 and 2739 of 2016 do not survive and the same are disposed of;

- (v) Disposed of Writ Petition No.11171 of 2016 shall be listed under the caption of “Directions” on 14th July, 2017 for reporting compliance.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)