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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9919 OF 2017

Malwadi Grampanchayat through Smt. Anita ... Petitioner
Sanjay Garde (Sarpanch)

Versus

State of Maharashtra & Ors. ... Respondents

Mr. S.P. Kadam, petitioner in Writ Petition.

Mr. R.S. Kadam, Applicant in Civil Application.

Ms. Saily Pednekar, i/b S.B. Shetye for Respondent No.5.

Mr. N.C. Walimbe, AGP for State.

Mr. R.S. Kate, for Respondent No.6.

**CORAM: SMT. VASANTI A NAIK AND
RIYAZ I. CHAGLA, JJ.**

DATED: 4th OCTOBER 2017

PC:-

By this writ petition, the petitioner Malwadi Gram Panchayat challenges the notification, dated 3rd August 2017 issued under the Rule 5(1) of the Bombay Village Panchayats (Numbers of Members, Divisions into Wards and Reservation of Seats) Rules, 1966 included the area in Ward No.1. The Gram Panchayat has sought a direction against the respondents to reconsider the notification dated 8th March 2017 and delete the areas illegally included in the gram panchayat.

The learned counsel for the respondents raise a preliminary objection to the tenability of the writ petition. It is stated that some of the villagers of the gram panchayat had filed writ petition no. 9248 of 2017 and this court had, by the order dated 14th August 2017 dismissed the said writ petition after holding that the

notification was issued after the objections raised by the petitioners were rejected.

In the circumstances of the case, we are not inclined to entertain this writ petition. Firstly, this court had dismissed writ petition no. 9248 of 2017 filed by some villagers in the gram panchayat not only because the High Court did not wish to interfere in the electoral matters but also because the objections raised by the petitioners in the said writ petition were decided and after rejection of the same, the notification was issued. In the instant petition, in paragraph 25, though a reference is made to the dismissal of writ petition no. 9248 of 2017, it is stated that the writ petition was rejected only because interference is not possible in exercise of the writ jurisdiction, in electoral matters. We however find that writ petition no. 9248 of 2017 was dismissed on merits after holding that the Collector had considered the objections raised by the petitioners in the said writ petition and for the reasons recorded in the impugned order, had rejected the objections pertaining to the alleged wrongful formation of wards. After holding so, it is observed in the order dated 14th August 2017 that in the circumstances of the case, it was not possible to interfere in a matter in respect of inclusion or exclusion of areas in the division of wards. Since the present writ petition is filed immediately after the disposal of writ petition no. 9248 of 2017; we are not inclined to entertain the same, for the aforesaid reason, specially when the election is scheduled on 16th October 2017. It would not be proper to admit this writ petition only for academic purpose after the election is concluded, more so, when there could be further changes, till the next election is held after five

years.

The writ petition is disposed of with no order as to costs. In view of the dismissal of the writ petition, civil application no. 2331 of 2017 stands disposed of.

(RIYAZ I. CHAGLA J.) (SMT. VASANTI A NAIK, J.)