

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10157 OF 2018

Madhavrao Bapu More
& others

Petitioners

Versus

The State of Maharashtra
& others

Respondents

Mr. G.V. Wani, advocate for petitioners.
Mr. S.B. Yawalkar, A.G.P. for respondents.

**CORAM : R.M.BORDE &
MANGESH S. PATIL, JJ.
DATE : 5th SEPTEMBER, 2018**

PER COURT:

1. Petitioners are praying for issuance of directions to respondents to conduct elections for filling up vacancy to the post of member from amongst the Scheduled Tribe category and thereafter proceed to fill up the vacancy in the office of Sarpanch.

2. It is not a matter of dispute that the vacancy in the office of Sarpanch has arisen as a result of death of the holder of the office during continuance of his term and the elections are proposed to be held in accordance with provisions of proviso to Section 43(1) of the Maharashtra Village Panchayats Act. Proviso to sub-section (1) to Section 43 provides that the post of Sarpanch or Upa-Sarpanch, as the case may be, fallen vacant under the this sub-section shall be filled in within thirty days from the date of such vacancy. Sub-section (1) of Section 43 provides that any vacancy on which notice has been given to the Collector in the prescribed

manner due to the disablement, death, resignation, disqualification, confirmation of no confidence motion, absence without leave or removal of a Sarpanch or Upa-Sarpanch, shall be filled, by the election of a Sarpanch or Upa-Sarpanch who shall hold office so long as the Sarpanch or Upa-Sarpach in whose place he has been elected, would have been elected, would have held office if the vacancy had not occurred.

3. The action of respondents in holding meeting to fill in the vacancy in the office of Sarpanch is in accordance with section 43 of the Act. The request made by petitioners is not in conformity with the provisions of law. In view of above, writ petition is rejected.

MANGESH S. PATIL
JUDGE

R.M.BORDE
JUDGE

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