

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10543 OF 2018

Sunil S/o Yuvraj Mali	Petitioner
versus	
The State of Maharashtra and others	Respondents.

WITH

CIVIL APPLICATION NO.11540 OF 2018

IN

WRIT PETITION NO.9914 OF 2018

Sau Manisha Shankar Khalane	Applicant
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versus

Prakash Dhudhaku Bhadane & others	Respondents.
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WITH

WRIT PETITION NO.10245 OF 2018

Dipak Kushalchand Birla & another	Petitioners
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versus

The State of Maharashtra and others	Respondents.
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Mr. P.M. Shah, Counsel i/b Mr. S.P. Shah, advocate for petitioner
in WP No.9914/2018,

Mr. D.S. Bagul, advocate for petitioner in WP No.12045/2018

Mr. V.J. Dixit, Counsel I/b Mr. N.S. Tekale advocate for petitioner in
WP No.10543/2018,

Mr. S.T. Shelke advocate for respondent No.2

CORAM : **R.M. BORDE AND**
MANGESH S. PATIL, JJ

Date : 19TH SEPTEMBER, 2018

PER COURT :-

1 The issue raised in the instant petitions is already covered by the decision rendered by the Nagpur Bench of this Court in Writ Petition No.6676 of 2016 and other companion matters decided on 27.8.2018.

2 It is not a matter of dispute that the reservation provided for the elected representatives of the Zilla Parishad, Dhule and Zilha Parishad Nandurbar is in excess of constitutional mandate i.e. exceeding 50%. Reliance is placed on the Judgment of the Apex Court in the matter of **K. Krishna Murthy (Dr) & another versus Union of India and another** (2010 7 SCC 202) to urge that reservation in seats exceeding 50% is unconstitutional. It is the contention that the reservation provided is in not only violative of constitutional mandate but also contrary to statutory provisions of Section 12(2)(c) of the Maharashtra Zilla Parishad & Panchayat Samitis Act, 1961.

3 An affidavit in reply has been presented today on behalf of respondent No.1 by the resident Deputy Collector, Nandurbar. It

is stated in the affidavit in reply that the State government is to take decision on the subject of amending the provisions of Section 12(2)(c) of the Maharashtra Zilla Parishad & Panchayat Samities Act 1961. It is further stated that, considering the issue involved and after the appropriate deliberation and receipt of sanction from the Cabinet, steps to amend the provisions would be initiated. The winter session of the Legislative Assembly and Legislative Council is scheduled on 19.11.2018 and after statutory requirement of sanction from the Legislative Assembly and Legislative Council, the amendment to the statutory provision will come into force. It is stated that the same will consume some time.

4 It is obvious that process of election would not be initiated until such amendments are incorporated in Statute. The tenor of the letter annexed to the affidavit in reply Annexure R-2 dated 30.8.2018 also makes the aforesaid position quite clear.

5 Considering the statement made in the affidavit in reply presented by the State and in view of the decision in the matter of **Yashant Pandurang Ashtankar versus The Divisional Commissioner, Nagpur Division in Writ Petition No.6676 of 2016** decided by the Division Bench at Nagpur on 27.8.2018, we reiterate the directions issued in the aforesaid writ petition

that the State Government shall take necessary decision on the subject of amending the provisions of Section 12(2)(c) of The Maharashtra Zilla Parishads & Panchayat Samitis Act, 1961 within a period of three months and *status-quo* as on today shall be maintained till then in respect of Zilha Parishad Dhule and Nandurbar.

6 In view of above, the writ petitions stand disposed of.

7 Pending Civil Application, if any also stand disposed of.

(MANGESH S. PATIL, J)

(R.M. BORDE, J)

vbd