

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

PUBLIC INTEREST LITIGATION NO.127 OF 2018

- 1] Parag Vijay Mehta
Age: 38 years, Occu: Business,
- 2] Gajanan Dattatray Shinde,
Age: 49 years, Occu: Agriculture,
- 3] Abhijeet Madhukar Chandorkar,
Age: 46 years, Occu: Business,
- 4] Sudhir Anant Sakharle,
Age: 41 years, Occu: Service,
- 5] Sanjog Deepak Sheth,
Age: 32 years, Occu: Business,
- 6] Ashik Gafoor Maniar,
Age: 35 years, Occu: Business,

All residing at & Post Pali, Tal: Pali – Sudhagad,
District Raigad.

...Petitioners

Versus

- 1] State of Maharashtra
Through Chief Secretary, Urban Development
Department, Mantralaya, Mumbai-32.
- 2] District Collector Raigad,
Office of District Collector, Alibag, Dist: Raigad.

- 3] Tahsildar, Taluka Pali, District Raigad.
- 4] Shri. Mahesh Ghabade, Extension Officer,
Pali Panchayat Samiti/Administrator of Group
Gram Panchayat, Pali, Taluka Sudhagad,
District Raigad.
- 5] State Election Commission,
New Administrative Building, Mantralaya,
Mumbai-400 032.

...Respondents

Mr. C. G. Gavnekar, Advocate for the Petitioners.

Mr. S .B. Kalel, AGP for Respondents-State.

Mr. S. B. Shetye, Advocate for Respondent No.5.

**CORAM : B.R. GAVAI &
M.S. KARNIK, JJ**

DATE : 14 SEPTEMBER 2018

ORAL JUDGMENT (Per B. R. Gavai, J)

- 1] Rule. Rule is made returnable forthwith.
- 2] Heard by consent of parties.
- 3] The Petitioners have approached this Court with a

grievance that though the State Government vide Notification dated 26 June 2015 has notified area of Village Pali in District Raigad as small urban area and has constituted Nagar Panchayat by name Pali Nagar Panchayat, the State has not taken steps to take it to its logical end.

4] We are aware about the restraints of our jurisdiction under Article 226 of the Constitution of India. We cannot compel the State Government to take a particular decision in a particular manner. However, when the State Government itself has taken a decision to constitute Nagar Panchayat, it is expected that the State should take it to its logical end.

5] From the material placed on record, it would reveal that the State Government had earlier issued the notification dated 26th June 2015 under the provisions of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 to constitute the Nagar Panchayat by name Pali Nagar Panchayat and appointed Tahsildar as its administrator. However, the same came to

be challenged by way of Writ Petition No.7061 of 2015. The Division Bench of this Court by judgment and order dated 14th March 2016 found that prior to issuance of notification the procedure prescribed by law and particularly under the provisions of Sub Sections (3), (4) and (5) of Section 3 was not followed and as such set aside the said notification.

6] It could thus be seen that though the State Government has taken a conscious decision to constitute group Gram Panchayat into Pali Nagar Panchayat, the same could not be implemented since the notification issued was set aside on the ground of procedure as prescribed by law was not being followed. In that view of the matter, we find that there should not be any impediment to the State Government to follow the procedure as prescribed in law for constituting the Gram Panchayat Pali into Nagar Panchayat.

7] We therefore dispose of the Petition with direction to the State Government to take appropriate decision for constitution of Pali Gram Panchayat into Nagar Panchayat after following the procedure

as prescribed by law in the light of judgment and order passed by this Court in Writ Petition No.7061 of 2015 as expeditiously as possible and in any case within a period of four months from today.

8] Rule is made absolute accordingly.

Balaji
Govindrao
Panchal

Digitally signed by
Balaji Govindrao
Panchal
Date: 2018.10.11
18:03:06 +0530

[M.S. KARNIK, J.]

[B.R. GAVAI, J.]