

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY,
BENCH AT AURANGABAD**

26. WRIT PETITION NO. 1526 OF 2019

Shobhabai Narayan Shinde
age 65 years occupation agriculture
R/o Kusumba Taluka Dhule District Dhule ...Petitioner

VERSUS

1. Sanram Govindrao Patil,
age 41 years occupation agriculture
R/o Kusumba Taluka Dhule District Dhule
2. Grampanchayat,
Kusumba Taluka and District Dhule
through its Village Development Officer.
3. The Returning Officer,
Grampanchayat Kusmba
Taluka and District Dhule
Tahsil Office Taluka Dhule District Dhule.
4. The Collector,
Dhule District Dhule ...Respondents

WITH

36. WRIT PETITION NO. 1557 OF 2019

Sunita Nana Bhil
age 30 years occupation agriculture
R/o Kusumba Taluka Dhule District Dhule ...Petitioner

VERSUS

1. Sanram Govindrao Patil,
age 41 years occupation agriculture
R/o Kusumba Taluka Dhule District Dhule
2. Grampanchayat,
Kusumba Taluka and District Dhule
through its Village Development Officer.

3. The Returning Officer,
Grampanchayat Kusmba
Taluka and District Dhule
Tahsil Office Taluka Dhule District Dhule.
4. The Collector,
Dhule District Dhule ...Respondents

Mr. P.D. Bachate, Advocate for petitioner in both petitions
Mr. P.B. Pawar, Advocate for respondent No.1
Mr. S.N. Kendre, Asstt. Govt. Pleader for respondent No.4

CORAM : SUNIL P. DESHMUKH, J.

DATE : 4th February, 2019

ORDER:

1. Heard learned counsel for petitioners, learned counsel for respondent No.1 and learned Assistant Government Pleader for respondent No.4, in both the petitions.

2. Learned Counsel for petitioners submits that the petitioners had been elected as members of *Gram Panchayat* of village Kusumba Taluka and District Dhule for the term 2013 to 2018. He submits that, however, for five years while there had been no objection to election of petitioners, suddenly at the fag end of the term, there has been flurry of activity with a view to disqualify petitioners while petitioner in writ petition No. 1526 of 2019 has been elected directly as *Sarpanch* pursuant to the

amended Act and petitioner in writ petition No. 1557 of 2019 has been elected as a member for the term 2019-2023 and while the meeting after election is scheduled on 7th February, 2019. In order to prevent the petitioners, respondent No.1 has purportedly moved pursuant to section 14-B of the Maharashtra Village *Panchayats* Act, 1959 wildly alleging that petitioners had not submitted election expenses in time.

3. Learned counsel for petitioners submits that proceedings are being hurriedly conducted and apprehends, in the process, proper and adequate opportunity would not come their way and hastily proceedings would be decided. According to the learned counsel, it is discernible from that, the objections raised in the proceedings have been turned down and order dated 25th January, 2019 has been passed in breach of guidelines issued by the Election Commission vide resolution dated 10th August, 2015, particularly, as appearing under its operative order as those have not received their due.

4. It is being contended on behalf of the petitioners that the proceedings are hit by question of limitation and that has not been dealt with under order dated 25th January, 2019.

5. It appears that the petitioners dispute the tenability / maintainability of the proceedings, referring to the guidelines,

particularly, operative portion as appearing under sub-clause (b) of clause (ii) thereof. Perusal of order dated 25th January, 2019 shows that the term of elected body is to be over on 7th February, 2019.

6. Objection to delegation of powers to respondent No.4 having regard to the decision of the Nagpur Bench of this Court in writ petition No. 2225 of 2013 and in order of delegation of power in the absence of challenge to the same, would not have efficacy and had been treated accordingly. It does not appear that the order of respondent No.4 dated 25th January, 2019 can be faulted with on that count. Having regard to aforesaid, in the circumstances, it is difficult to accede to the request made in the writ petition.

7. The matter appears to be still wide open for contest on merits including with reference to guidelines, referred to above. All the points are open for the petitioners including contention about limitation, save, with reference to delegation.

8. The writ petitions, therefore, are not being entertained. The writ petitions are disposed of.

(SUNIL P. DESHMUKH)
JUDGE.