

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6450 OF 2019

MUKTABAI NIVRUTTI BANSODE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Salunke V.D.

AGP for Respondents No. 1 to 3 :

Mr. S. B. Yawalkar

Advocate for Respondent No. 5 : Mr. S. T. Shelke

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CORAM: S. V. GANGAPURWALA &
MANGESH S. PATIL, JJ.

DATE: 07th JUNE, 2019

PER COURT:

1. We have heard the learned A.G.P. for respondents no. 1 to 3, Mr. Shelke, the learned Advocate for respondent no. 5.

2. Mr. Salunke, learned Advocate for the petitioners submits that the election for the post of Sarpanch is scheduled on 10.06.2019. The four posts of members of the Village Panchayat, Sakhara are vacant, as those four members are disqualified. There are nine members of the

Village Panchayat, Sakhara. Only five members have remained. The Sarpanch is to be elected from amongst the members of the Grampanchayat. The election for the post of members of the Grampanchayat are not held and instead the election for the post of Sarpanch is held. The Sarpanch is also disqualified.

3. Mr. Yawalkar, the learned A.G.P. submits that, the election of four posts of members is not held because those members have preferred SLP against the order of this Court confirming their disqualification. However, accepts that the Hon'ble Apex Court has not granted stay to their disqualification.

4. Mr. Shelke, the learned Advocate submits that the notification is issued for the election of the post of Sarpanch as per the directions of the Collector.

5. In the present case, the post of the Sarpanch is reserved for S.C. There were three S.C. members

of the Village Panchayat, Sakhara. Two S.C. members and two O.B.C. members are disqualified. Only five members have remained. The election of the Sarpanch is proposed to be held by the respondent from amongst the five members. The purpose of electing the Sarpanch by majority would stand frustrated if the election of Sarpanch is held before the election of the vacant posts of members of the panchayat. The same would certainly not be in consonance with the democratic principles of electing Sarpanch by majority. Moreover, there is no stay to the disqualification of the four members.

6. In the light of above, we set aside the notice of holding the election for the post of Sarpanch - Sakhara. We direct that the election for the post of Sarpanch of Village Panchayat, Sakhara shall be held after the elections of the four posts of the members of the Village Panchayat are conducted.

7. Writ Petition accordingly stands disposed of.

No costs.

8. Authenticated copy be given.

[MANGESH S. PATIL, J.][S. V. GANGAPURWALA, J.]

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