

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

WRIT PETITION NO. 7311 OF 2019

**SWATI DADASAHEB GALANDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. R.V. Gore, Advocate for the Petitioner.
Mr. P.K. Lakhotiya, AGP for Respondent Nos. 1, 3 & 4.
Mr. A.B. Kadethankar, Advocate for respondent No. 2.

**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.
DATE : 18TH JUNE, 2019.**

PER COURT :

1. Mr. Gore, the learned Counsel for the petitioner submits that the election of the post of Sarpanch is scheduled on 19.06.2019. Three members of the Grampanchayat are disqualified. The By-election for the three posts is scheduled on 23.06.2019 and the results would be declared on 27.06.2019. The election of the post of Sarpanch be deferred till the declaration of results of the By-election of the members.

2. The learned AGP accepts notice for respondent Nos. 1, 3 & 4. Mr. Kadethankar, the learned Counsel waives notice for respondent No. 2.

3. We had asked the learned Counsel for the petitioner and the learned AGP as to whether the Sarpanch is to be elected by the villagers or from amongst the members. The learned Counsel for the petitioner and the learned AGP replied that the Sarpanch is to be elected amongst the members of the Grampanchayat.

4. In case, Sarpanch is to be elected by the majority of the members of the Grampanchayat, then result of the By-election would be necessary. The By-election for the three posts of three members of the Grampanchayat is scheduled on 23.06.2019 and the results would be declared on 26.06.2019. It would be appropriate, if the election of the Sarpanch is held after the result of By-election of the posts of the members of the Grampanchayat and that would be a democratic principle of election that Sarpanch is elected by the majority of the members of the Grampanchayat.

5. In the light of the above, we set aside the order of holding election of Sarpanch of Village Panchayat Pimpalwadi Pirachi, Taluka Paithan, District Aurangabad scheduled to be held on 19.06.2019 and direct that the election of the Sarpanch of Grampanchayat Pimpalwadi Pirachi shall be held after 27.06.2019.

6. In the light of the above, Writ Petition is disposed of. No costs.

(MANGESH S. PATIL, J.)

(S. V. GANGAPURWALA, J.)

P.S.B.