

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

WRIT PETITION NO. 13704 OF 2018

Yogesh Sudhakar Borase

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri P. D. Bachate, Advocate h/f Shri N. N. Desale, Advocate for the Petitioner.

Mrs. Geeta L. Deshpande, A.G.P. for Respondent Nos. 1 and 3.

Shri Shivaji T. Shelke, Advocate for the Respondent No. 2.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVALA, JJ.**

DATE : 07TH FEBRUARY, 2019.

FINAL ORDER :

. Mr. Bachate, the learned advocate for the petitioner submits that, in no case the reservation of the seat can be beyond 50%. The Gram Panchayat consists of nine members and one Sarpanch. There are three wards. In Ward No. 1 one seat is reserved for Other Backward Class category. In ward No. 2 also one seat is reserved for Other Backward Class category and in ward No. 3 one seat is reserved for S. T. category and two seats are reserved for S. T. female category. The post of Sarpanch is also reserved for S.T. category. The village Piloda is not in the scheduled area. The reservation could not have exceeded 50%. Sarpanch is also a member of village panchayat, as such out of

ten seats, six seats are reserved thereby exceeding 50% reservation. The same is illegal and not countenanced with law.

2. According to respondents Sarpanch is directly elected separately by the persons and is not elected amongst the members, as such has to be considered separately. The election programme has also been published. The nomination papers have to be accepted from 04.02.2019 to 09.02.2019.

3. We have considered the submissions canvassed by the learned counsel for respective parties.

4. The position has undergone change after the amendment wherein sarpanch is now directly elected. Out of nine seats, five seats are reserved and post of Sarpanch is also reserved.

5. It is not disputed that the election programme has already been declared on 23th January, 2019 and the nomination papers are also filled in from 04.02.2019.

6. In the light of the above, we are not inclined to interfere with the election process at this stage and consider the arguments of the learned advocate for the petitioner on merits.

7. The petitioner may agitate his grievance in appropriate proceedings and at appropriate time. The same are kept open.

8. The writ petition accordingly is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

bsb/Feb. 19