IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION No. 432 of 2019

Meera W/o Ashok Taur
age 36 years occupation agriculture
R/o Kalegaonthadi Tal. Majalgaon Dist. Beed. **...Petitioner**

VERSUS

1. The State of Maharashtra
Through : The Secretary
to the Government of Maharashtra
in the Rural Development Department,
Mantralaya, Fort, Mumbai.

2. The Collector, Beed.

3. The Returning Officer & Sarpanch,
Group Grampanchayat, Kalegaonthadi
Taluka Majalgaon District Beed

4. Sindhu W/o Govindrao Taur,
age 30 years occupation household and agriculture
R/o as above

5. Sudhakar S/o Baburao Wakte,
age major occupation agriculture R/o as above.

6. Vinayak S/o Gulabrao Taur,
age major occupation & R/o as above.

7. Rukminbai W/o Bhagwatrao Taur,
age major occupation & R/o as above

8. Kaushalyabai Dnyanoba Chafekanade,
age major occupation & R/o as above

9. Walmik Sopan Sawant,
age major occupation & R/o as above

10. Group Grampanchayat,
Kalegaonthadi-Dubbathadi
Taluka Majalgaon District Beed
through its Gramsevak **...Respondents**

Mr. C.V. Thombre, Advocate for petitioner
Mr. G.O. Wattamwar, Asstt.Govt.Pleader for respondents No.1 &2

CORAM : SUNIL P. DESHMUKH, J.
DATE : 15th January, 2019

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith. Heard learned counsel for appearing parties finally with consent.

2. The petitioner purports to pose challenge to order passed by the collector, Beed, in dispute raised by the present petitioner questioning validity of election of respondent No.4, on the ground that a *Grampanchayat* member is not entitled to nominate and to propose more than one candidate in the elections to the posts of *Sarpanch* and *Upa-Sarpanch,* purporting to invoke Rule 7 of the Bombay Village Panchayats (*Sarpanch* and *Upa- Sarpanch*) Election Rules, 1964, (hereinafter referred to as 'the Rules'). Respondent No.4 had been elected as *Upa-Sarpanch* in the *Grampanchayat* Elections of 2017.

3. The collector, Beed, has quite elaborately referred to the submissions on behalf of the parties and had found that there is no prohibition under the Rules for members to propose each other from amongst the elected members of *Grampanchayat* for the posts and the proposed member as well is not prohibited from proposing other member to other post. The collector has, thus, observed that the proper procedure for holding election to the

posts of *Sarpanch* and *Upa-Sarpanch* has been followed and has further observed that under the Rules, there is no prohibition for the members proposing each other for different posts nor the petitioner has been in a position to point out any particular prohibition nor for that matter petitioner has relied on any specific case law and, thus, has dismissed the appeal.

4. Learned counsel Mr Thombre for petitioner submits that Rule 7 reads, thus,

> *" 7.* ***Member to nominate not more than one candidate.-*** *No member shall nominate more than one candidate for the office of the "Sarpanch or Upa-Sarpanch:*
>
> *Provided that if a member has nominated more than one candidate for the office of the Sarpanch or Upa-Sarpanch the nomination which is received first by the Presiding Officer, shall alone be taken into consideration for scrutiny.*
>
> *Provided further that, if only one member is elected from the Village Panchayat reserved for certain category, there shall be no need of the proposer at the time of filing nomination.*
>
> *Provided also that, if two or more members are elected from the reserved category for which the office of the Sarpanch is reserved and none of them have got any proposer, then nomination forms of all such members shall be accepted. "*

It would be discernible that a member is prohibited from nominating more than one candidate for the post of *Sarpanch* or

Upa-Sarpanch.

5. In the present case, the *Sarpanch* had proposed election of *Up-Sarpanch* out of the candidates elected as members of the Gram Panchayat. Perusal of the Rule, particularly the first proviso thereunder, shows that even in case of nomination by a member of more than one candidate, the nomination, which is received first in point of time by the presiding officer, shall alone be taken into consideration for scrutiny. Nomination received first has to be given precedence, and shall alone be taken into consideration reflecting the same to be mandatory in nature. This would show that such first received nomination is not invalidated because of a candidate proposing more than one candidate. Having regard to the same, on facts, it does not appear that case has been made out about breach of first proviso of Rule 7.

6. In the circumstances, order passed by the collector does not appear to be liable to be faulted with. The petition, therefore, is not entertained and is dismissed.

7. Rule discharged.

(**SUNIL P. DESHMUKH**)
JUDGE.

Madkar