

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

WRIT PETITION NO. 15474 OF 2019

SHIVNANDA SHIVAJI BOMBLE @ SHIVNANDA AJAY WAKODE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Mane Dhananjay A
AGP for Respondents : Mrs. M. A. Deshpande
Advocate for Caveator : Mr. A. M. Inamdar

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**CORAM: S. V. GANGAPURWALA &
AVINASH G. GHAROTE, JJ.**

DATE: 18th DECEMBER, 2019

PER COURT:

1. The learned counsel for the petitioner submits that elections are notified for the post of Sarpanch of Village Panchayat, Tamsa. The learned counsel submits that two posts of the members of the Grampanchayat Tamsa are also vacant. The Sarpanch is to be elected from amongst the members of the Grampanchayat. First the election of members ought to be held and thereafter the election of Sarpanch is required to be held. According to the learned counsel, it is only with a view to favour the intervenor the elections for the post of Sarpanch is declared and she is the only qualified candidate from S.T. category. The learned counsel relies on the order

of this Court dated 03.05.2019 in Writ Petition No. 5320 of 2019.

2. We have heard the learned A.G.P. also.

3. The learned A.G.P. refers to Section 43 of the Maharashtra Village Panchayat Act and submit that elections of the Sarpanch are to be held within the stipulated period.

4. While passing the order on 03.05.2019 in Writ Petition No. 5320 of 2019, Section 43 of the Maharashtra Village Panchayat Act was not brought to the notice of this Court. Further, in the said case the elections for the post of Sarpanch was scheduled on 04.05.2019 and elections for the post of members was scheduled on 05.05.2019. The close proximity of the dates of elections was the subject matter of consideration in the said writ petition.

5. In the present case, the post of Sarpanch is vacant since December 2018. Section 43 of the Maharashtra Village Panchayat Act, more particularly, proviso to sub-section 1 of Section 43 mandates that the post of Sarpanch or Up-sarpanch falling vacant shall be filled in within thirty days from the date of such vacancy, no such mandate appears to fill the post of member of the panchayat.

6. Mr. Mane, the learned counsel submits that the petitioner is from S.T. category and he prefers to contest for the post of member of the Grampanchayat inter alia after elections would be entitled to contest the post of Sarpanch. The said statement is hypothetical and cannot be considered at this stage.

7. In light of the above, no fault can be found in the impugned process.

8. Writ Petition as such is disposed of. No costs.

[AVINASH G. GHAROTE, J.] [S. V. GANGAPURWALA, J.]

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