

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 2375 OF 2019
ALONG WITH
CIVIL APPLICATION NO. 608 OF 2019**

Shri Sanjay Gangaram Kasurde
Vs.

.. Petitioner

Smt. Laxmi Rajendra Karhadkar

.. Respondent

Mr.A.V. Anturkar, Senior Advocate a/w. Ms. Kalyani Tulankar, Mr.Amol Gatne I/b Mr.Ranjit D. Shinde for petitioner.

Mr.P.P. Kakade, Government Pleader a/w. Mr.K.S. Thorat, AGP for respondent Nos.1` to 3.

Mr.V.D. Patil a/w. Mr.Siddharth R. Kapre for intervenor in CAW/608/2019.

**CORAM : R. M. BORDE &
N.J. JAMADAR, JJ.**

DATE : 13TH JUNE 2019

P.C.

1. The petitioner is the President of Panchgani Giristhan Municipal Council directly elected in accordance with the provisions of Section 51A[1-A][9] of the Maharashtra Municipal Council Nagar Panchayat and the Industrial Township Act, 1965 [‘The Act of 1965’]. A declaration has been issued as regards election of the President on 28th November 2016. The learned counsel appearing for the petitioner informs that a meeting for nominating the Councilors in accordance with Section 9 read with Section 51(B) of the Act of 1965 was convened by the Collector on 31st December

2016. However, seven proposals tendered for nomination of Councilors were found to be invalid and as such the Councilors were not nominated in the said meeting.

2. It appears that one Shri Sanjay Gangaram Kasurde tendered a complaint to the Collector alleging that President has not taken steps for nominating the Councilors since last two years and as such, the posts of the nominated Councilors have remained vacant and, that, it shall be necessary to direct the President to take steps at the earliest.

3. On receipt of the complaint/application tendered by the intervenor/Shri Kasurde, the Collector, on 5th February 2019 proceeded to direct the President to convene a Special Meeting for nominating the Councilors. The learned counsel for the petitioner contends that in view of the amended provisions of Section 51[B][4] of the Act of 1965, the procedure prescribed under Section 51-B in respect of the nomination of the Councilors is not required to be followed in case, the President is directly elected under Section 51-1A. It is the contention of the petitioner that the responsibility lies on of the Collector to take steps for convening a meeting for the purpose of nominating the Councilors and as such, it was an error on the part of the Collector to issue directives to the President/petitioner for convening a Special Meeting, for said purpose.

4. The learned counsel for the intervenor has invited our attention to the Rules framed by the State Government published on 31st May 2019 in exercise of powers conferred under clause (b) of sub-section (1) of Section 9 and sub-section (2) of Section 51B read with sub-sections (1) and (2) of Section 321 of the Maharashtra Municipals Councils, Nagar Panchayats and Industrial Townships Act, 1965. The Rules are titled as 'Maharashtra Municipal Councils and Nagar Panchayats (Qualifications and Appointments of nominated Councilors) Amendment Rules, 2019'. A proviso is added by virtue of amendment to Rule 5 which provides that when a President is directly elected under Section 51A-1A, the President so elected shall nominate the Councilors in the manner provided in the amended proviso. Thus, it is clear that in view of the provisions of the amended Rules published on 31st May 2019, it would be the responsibility of the President, who is directly elected under Section 51A-1A, to nominate the Councilors in the manner provided in the Rules. In view of the enforcement of the Rules by virtue of the Notification dated 31st May 2019, the directives issued by the Collector in the instant petition are rendered redundant and the petitioner is expected to take steps as provided under the amended Rules.

5. In view of the clarification as recorded above, the writ petition is disposed of.

It is needless to mention that in case of occurrence of any cause, it would be open for the petitioner to take steps as permissible in law.

6. In view of disposal of the writ petition, the civil application does not survive and accordingly stands disposed of.

[N.J. JAMADAR, J.]

[R. M. BORDE, J.]