

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

WRIT PETITION NO. 8210 OF 2020

Sunil S/o Dhondiba Khandagale ... Petitioner.

Versus

The State of Maharashtra
and others ... Respondents.

....

Mr. S.E. Shekade, Advocate for the Petitioner.
Mr. D.R. Kale, A.G.P. for Respondent Nos. 1 to 3.
Mr. A.B. Kadethankar, Advocate for Respondent No.4.

....

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 14th DECEMBER, 2020

PER COURT:-

1. Mr. Shekade, the learned counsel for the petitioner submits that respondent No.3 has called for the special meeting for the members of Village Panchayat, Morala to elect the Sarpanch from the elected members of the Panchayat. Mr. Shekade submits that the general elections of the Village Panchayat Morala were held in September, 2017. The Sarpanch was directly elected from the villagers of village Morala in view of Section 30A-1A of the Maharashtra Village Panchayats Act, 1959. On 09.09.2020, directly elected Sarpanch of

village Morala resigned. The post of directly elected Sarpanch has fallen vacant. The program declared to elect the Sarpanch from amongst the members of the Village Panchayat is illegal. To elect the Sarpanch for the remained period of the Panchayat, the provisions of Section 10-1A as it stood on the date of election would apply. The amendment cannot apply retrospectively. The petitioner is a villager of village Morala. The period for which the Sarpanch was directly elected by the villagers is five years. In the midst, if such Sarpanch resigns, for the remainder period, the same procedure has to be adhered to. The learned counsel relies on Section 7 of the Maharashtra General Clauses Act to substantiate his contention. The right of the petitioner as the voter can not be taken away by the subsequent legislation for the remained period for directly elected Sarpanch.

2. We have heard the learned A.G.P. and Mr. Kadethankar, the learned counsel for the respondents.

3. Section 30A-1B has been introduced in the Maharashtra Village Panchayats Act, the same reads thus:

“30A-1B. After the date of commencement of the Maharashtra Village Panchayats (Amendment) Act, 2020, in respect of the general elections and by-elections to

panchayat, the provisions of Section 30A-1A shall cease to apply and every panchayat have a Sarpanch, who shall be elected under section 30 and the provisions of section 33 shall apply therefor.”

The said amendment came into force from 05.03.2020. On and from the date of the amendment and the introduction of Section 30A-1B, the provisions of Section 30A-1A shall cease to apply. It was only under Section 30A-1A, the Sarpanch was directly elected by the voters of the entire village. The said provision itself stands repealed by introduction of Section 30A-1B. Section 30A-1B is not the subject matter of challenge in the present matter.

4. In the light of the above, it cannot be said that respondent No.3 is at fault in calling for a special meeting of the members to elect the Sarpanch from the members of the Village Panchayat.

5. Writ Petition is accordingly stands disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

S.P. Rane