

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2486 OF 2021

Shivaji Ganpatrao Kalyankar and ors.

...Petitioners

Versus

The State of Maharashtra and Ors.

...Respondents

Mr G.V. Mohekar, Advocate for Petitioners

Mr A.R. Kale, A.G.P. for Respondent No. 1

Mr A.B. Kadethankar, Advocate for Respondent No. 2

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

DATE : 8th FEBRUARY, 2021

PER COURT :

1. The learned counsel for the petitioner submits that the petitioner has already filed election petition against the respondent Nos. 3 to 12 challenging their election. The respondent Nos. 3 to 12 have committed malpractice and corrupt practice in as much as their names appear as voters in the voters list of Grampanchayat, Pimpalgaon Mahadev and so also, they have contested the election of Grampanchayat, Pimpalgaon Mahadev and got elected. The petitioner is the defeated candidate. According to the learned counsel, even respondent Nos. 3 to 5 got elected as the candidates from village Hiwra T. Jawla. This itself shows the illegality committed. The respondents be restrained from casting their votes in the election of the Sarpanch of Grampanchayat, Pimpalgaon Mahadev. According to the learned counsel, the respondents did not contest the election for the post of Sarpanch. The election for the post of

Sarpanch be stayed till the election petition filed by the petitioner is decided.

2. We have heard the learned Assistant Government Pleader.

3. The petitioner has also availed appropriate remedy of filing election petition against respondent Nos. 3 to 12. The petitioner does not have a right at present to stall the election process for the post of Sarpanch of Grampanchayat, Pimpalgaon Mahadev. The respondents are the elected candidates. The stay cannot be granted to the election of Sarpanch and members cannot be restrained from enjoying their right to cast vote pending election petition before the appropriate authority. The petitioner as on date, would not possess cause of action to restrain them from casting their vote for the post of Sarpanch or from contesting election for the post of Sarpanch. Naturally, all the parties would be bound by the decision in the election petition and the further course of action can be taken depending upon the judgment delivered by the authority in the election petition filed by the petitioner.

4. With these observations, the writ petition is disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S.V. GANGAPURWALA, J.]

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