

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

920 WRIT PETITION NO.2508 OF 2021

SARLA DIPAK BORASE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner:

Mr. A. B. Girase and Mr. Y. B. Bolkar

AGP for Respondents/State: Mr. A. R. Kale

...

WRIT PETITION STAMP NO.4980 OF 2021

LAHU GARBAD BHIL

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner:

Mr. A. B. Girase and Mr. Y. B. Bolkar

AGP for Respondents/State: Mr. A. R. Kale

...

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

DATE: 09th FEBRUARY, 2021

PER COURT:

1. Writ Petition No. 2508 of 2021 is filed by the candidate elected from O.B.C. (Women) category as a member of Grampanchayat - Amrale and the petitioner in Writ Petition Stamp No. 4980 of 2021 is elected from S.T. category.

2. Mr. Girase, learned Counsel for the petitioners submits that the reservation and

region policy has not been applied properly while reserving post of Sarpanch for S.T. (Women). According to the learned Counsel, Rule 2-A of the Maharashtra Village Panchayats (Sarpanch and Upa-Sarpanch) Election Rules, 1964 has not been adhered to, so also, Sub-rule 4 of Rule 2-A and its proviso ought to have been considered in its proper perspective. The draws should have been drawn, then it is the fate of the candidate whether it would be reserved for women or otherwise. The said procedure has not been adopted by the respondents. In fact, the same has been breached by the respondents.

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

4. It would appear that the post of Sarpanch of village Amrale was reserved in the year-1995 for General candidate, in the year-2000 it was reserved for O.B.C., in the year-2005-General (Women), in the year-2010 General(Women), in the year-2015 General and now it is reserved for S.T. (Women).

5. The reservation was provided for S.T. category in the Taluka for 27 posts. The reservation for S.T., S.C. has to be provided in a descending order *vis-a-vis* the population of the same. The reservation provided in particular village earlier has to be excluded while reserving the post of S.C., S.T., O.B.C. It appears that considering the reservation made earlier and the Women post available for S.T. category the villages were carved out. The post of Sarpanch of village Amrale was reserved for General in 2015-2020. 50% posts are to be reserved for Women even from S.T. In view of that, 14 posts will have to be reserved for Women. As the post of Sarpanch was not reserved for Women in the last year, the same was reserved for women from S.T. category in the present year. The contention of Mr. Girase, learned Counsel that the word used in the Rules is elections and not election and so if in any earlier elections the post was reserved for Women then the same will have to be excluded and the draws will have to be made.

6. However, it would appear that the balance of 50% for Women from S.T. category will have to be maintained. The exclusion, no doubt, will have to be considered, however, the balance will have to be struck. The data will have to be scanned as to the other villages where the post of S.T. are reserved and in the previous year whether they were never reserved for Women. All the said data will have to be required to gone into, which, at present, the same is not the part of record.

7. In view of that, writ petitions are disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S. V. GANGAPURWALA, J.]

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