

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2499 OF 2021

Tirthanand Mahadu Patil

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

Mr P.R. Katneshwarkar and Mr Anuj ajay Fulfagar,
Advocates for Petitioner

Mr A.R. Kale, A.G.P. for Respondent-State

Mr A.B. Kadethankar, Advocate for Respondent

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

DATE : 15th FEBRUARY, 2021

PER COURT :

1. The petitioner claims to be an elected member of the Grampanchayat, village Borvihir, Dhule, Tal. and Dist. Dhule.
2. The post of Sarpanch of the village Borvihir is reserved for general (women) category.
3. The learned counsel submits that for the year 2005-2010, 2015-2020 and 2020-2025, the reservation is provided for women belonging to general category and the same is in violation of Rule 4 and the mandate of the rotation policy. The learned counsel submits that for this year, the reservation could not have been made for women category. The petitioner is elected from general category.

4. The learned counsel submits that the rotation policy is not followed. Non-adherence to the rotation policy would vitiate the reservation for the post of Sarpanch. The learned counsel relies on the judgment of Division Bench of this Court in writ petition No. 5386 of 2006 dated 3rd October, 2006 and the judgment in writ petition No. 6389 of 2006 with connected writ petitions dated 9th February, 2007.

5. We have also heard the learned Assistant Government Pleader and Mr Kadethankar, the learned counsel for the respondent.

6. It appears that there are 131 Grampanchayats for the posts of Sarpanch in Dhule Taluka. Out of them, 61 posts are reserved for general category candidates. From 61 posts, 50 % posts are to be reserved for women. The same would be 31. According to the petitioner, the posts of Sarpanch for Grampanchayat, Borvihir was reserved for general (women) for the year 2015-2020 and now again it is reserved for women (general) category. Year 1995 is the base year to be considered for implementation of the rotation policy. In normal course, the reservation of general (women) has to be followed in letter and spirit. It may happen that for one or two talukas, the reservation may be repeated would not be sufficient to conclude that the reservation policy has not been appropriately applied. The data since the year 1995 i.e. base year has to be placed on record. It is not clear from the documents on record as to which Grampanchayat was reserved for general category in the year 2015-2020 and general women. Unless the whole data appears before us, it would not be possible

to conclude the manner of reservation. Change in reservation for the post of Sarpanch at the eleventh hour may not be feasible and it would result in the change of reservation for many Grampanchayats.

7. In light of the above and in absence of the entire data, it would not be possible to entertain the prayer made in the writ petition.

8. The writ petition as such is disposed of. No costs.

[SHRIKANT D. KULKARNI, J.]

[S.V. GANGAPURWALA, J.]

mta