

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

WRIT PETITION NO. 3037 OF 2021

Shital W/o Satish Patil

... Petitioner.

Versus

The State of Maharashtra
and others.

... Respondents.

....

Mr.Ujjwal Patil, Advocate h/f Mr. Yogesh Patil, Advocate for the
Petitioner.

Mr. A.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 : 16th FEBRUARY, 2021

PER COURT:-

1. The grievance of the petitioner is that the post of Sarpanch is reserved for O.B.C. (women) category. The candidate who contested the post of Sarpanch from O.B.C. category did not possess the validity certificate, nor had submitted the proposal for validation before he contested the election of a member. The said person contested the election from General category. The learned counsel submits that the said person would be disqualified.

2. The person who is elected as a Sarpanch is not a party to the present petition. Moreover, the person elected as a member from general category and if he belongs to reserved category he can contest the post of Sarpanch from reserved category.

3. The learned counsel placed reliance on the judgment of the Apex Court in case of *Bihari Lal Rada Vs. Anil Jain (Tinu) and others* reported in *(2009) 4 SCC 1*.

4. The Apex Court in case of *Bihari Lala Rada* (supra) has observed thus:

“In our view, wherever the office of the President of a Municipality is required to be filled in by a member belonging to Scheduled Caste, Scheduled Tribe or Backward Class as the case may be it would be enough if one belongs to one of those categories irrespective of the fact whether they have been elected from a general ward or a reserved ward. Likewise, the office of the President of a Municipality if not reserved or meant for general category, all the candidates irrespective of their caste, class or community and irrespective of the fact whether they have been elected from a reserved ward or a general ward are entitled to seek election and contest to the office of the President of the Municipality.

5. In the light of that, no case for interference is made out. Writ petition is disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

S.P. Rane