

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

WRIT PETITION NO. 3208 OF 2021

Vijayabai Nanasaheb Dhokane
and another

.. Petitioners

Versus

The State of Maharashtra and others

.. Respondents

Shri Rahul R. Karpe, Advocate for Petitioners.

Shri P. K. Lakhotiya, A.G.P. for Respondent Nos. 1, 3 to 5.

Shri A. B. Kadethankar, Advocate for the Respondent No. 2.

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

DATE : 17TH FEBRUARY, 2021.

FINAL ORDER :

. Mr. Karpe, the learned counsel for the petitioner submits that, the post of Sarpanch of Gram Panchayat Umbre, Tq. Rahuri is reserved for the Scheduled Tribe (Female). The S.T. (Female) candidate is not available in the said gram panchayat. In that case, it should have been reserved for O.B.C. or S.C. (Female) candidate, otherwise 50% reservation of the female category would not be maintained. The learned counsel submits that, same is the requirement of the Maharashtra Village Panchayat Act and the Maharashtra Village Panchayat (Sarpanch and Upasarpanch Election) Rules.

2. We have heard the learned Assistant Government Pleader

for respondent Nos. 1, 3 to 5 and Mr. Kadethankar, the learned advocate for the respondent No. 2.

3. In case, the S.T. (Female) is not available, said post will go to S.T. The same is requirement of second proviso to Sub Rule 4-A of Rule 2 of the Rules of 1964. The said rules are not subject matter of challenge in the present writ petition. The same would be in consonance with the rules.

4. In case said post is not reserved for S.T. category, then the reservation provided for S.T. category would be reduced. Care has been taken of the said contingency.

5. In view of the second proviso to Sub Rule 4-A of Rule 2 of the Rules of 1964, fault cannot be found on the part of the respondent authorities.

6. In the light of the above, the writ petition is disposed of. No costs.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]