

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5246 OF 2021

Ramkrushna Gendlal Pandhare and others

Vs.

The State of Maharashtra through District Collector, Gondia and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Akshaya Sudame, Advocate for petitioners.

Ms. H. N. Jaipurkar, AGP for respondent Nos.1 and 2.

CORAM : AVINASH G. GHAROTE, J.

DATE : 13/12/2021

Heard Mr. Akshaya Sudame, learned counsel for the petitioners. The contention is that the respondent No.3 belongs to the Gowari Community, which is declared as a 'Special Backward Class', and not as a 'Schedule Tribe'. It is contended that judgment of the learned Division Bench of this Court, in ***Adim Gowari Samaj Vikas Mandal Vs. State of Maharashtra, 2018 (5) Mh. L.J. 468***, which held 'Gowari' to be a part of the Gond Gowari Schedule Tribe, has been set aside by the Hon'ble Apex Court in the case of ***State of Maharashtra Vs. Keshao Vishwanath Sonone, 2020 SCC OnLine 1040***, by holding that 'Gowari' is not included in 'Gond Gowari' Schedule Tribe. It is therefore, contended that the acceptance of the nomination of the respondent No.3, who belongs to the Gowari Special Backward Class, on which certificate he had contested elections held on 16.10.2017, cannot be now considered to be a candidate, duly complying with the requirement of contesting for

the seat, which is reserved for the 'Schedule Tribe'. The objection raised to his nomination has been accepted by the Election Officer by rejecting his nomination, appeal against which has been allowed by the learned District Judge by judgment dated 09.12.2021, which is impugned here.

However, considering the fact that the election process has already commenced and today being the date fixed for allotment of symbols, I do not consider it appropriate to interfere in the election process, which not only has commenced, but is well under way.

The petition is therefore, on this limited ground dismissed, leaving it open for the petitioners to raise all grounds contained herein in appropriate proceedings, after the election is over. No costs.

JUDGE

Later on, Mr. Sudame, learned counsel for the petitioners, when I was rising for the day, appeared and pointed out that the respondent No.2 had postponed the date for withdrawal of nomination and allotment of symbols to 15.12.2021, in view of the pendency of appeal before the learned District Judge. First of all, such a course could not have been adopted by the respondent No.2, the Returning Officer, as it is not permissible for him to change/vary the election programme once

published. That apart, the appeal before the learned District Judge already stood decided on 09.12.2021 and it appears, that the learned respondent No.2 was clearly belabouring under a misconception. The postponement, thus would not according to me permit interference in the election process once commenced.

JUDGE

Sarkate