

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9425 OF 2022

Raghuvendra Manohar Patil,
Age : 27 years, Occupation : Social Worker /
Member of Dhule Zilla Parishad, Dhule,
R/o. Nagaon, Taluka and District Dhule

.. PETITIONER

VERSUS

- 1] The State of Maharashtra,
Through its Principal Secretary,
Planning Department, Mantralaya,
Mumbai
- 2] The District Collector, Dhule,
Taluka and District Dhule
- 3] The District Planning Committee,
Through District Planning Officer,
Dhule, Taluka and District Dhule
- 4] The District Planning Committee,
Through District Planning Committee
Returning Officer, Dhule,
Taluka and District Dhule

.. RESPONDENTS

...
Advocate for petitioner : Mr. D.S. Bagul
GP for the respondents : Mr. D.R. Kale
...

**CORAM : MANGESH S. PATIL &
Y.G. KHOBRAGADE, JJ.**

**RESERVED ON : 13 DECEMBER 2022
PRONOUNCED ON : 14 DECEMBER 2022**

JUDGMENT (MANGESH S. PATIL, J.) :

Heard. Rule. Rule made returnable forthwith. Learned Government Pleader waives service for the respondents. At the joint request of the parties, the matter is heard finally at the stage of admission.

2. The petitioner is aggrieved by the fact that though the election for filling up the seats in the District Planning Committee of Dhule district had commenced under the Maharashtra District Planning Committees (Constitution and functions) Act, 1998 (**Act of 1998**) pursuant to the directions of this Court in writ petition no. 2452 of 2022 by the order dated 04-04-2022 (*Sangram Govindrao Patil and another Vs. State of Maharashtra and others*) whereby it had directed the respondents to complete the entire process of election within a period of eight weeks and though the election programme was modified on 08-08-2022, by the impugned communication dated 08-09-2022, the respondent no. 1 - State has informed the respondent no. 2 - Collector and the Secretary in District Planning Committee to stop the process of election until further orders.

3. Learned advocate Mr. Bagul would submit that the election programme for filling up 23 seats was declared. Out of that after the date of withdrawal, there was no contest in respect of 22 seats and only one seat had remained to be elected. At that stage, at the instance of a local member of the legislative assembly, the impugned communication was issued postponing the election until further orders.

He would submit that the impugned order does not indicate the reasons which had prompted the State Government to direct the respondent no. 2 - Collector to stay the further progress of the election.

He would submit that the State Government does not have any powers to postpone the elections. Even the direction is clearly in violation of the trite principles laid down time and again by the Supreme Court to the effect that the election process cannot be stalled.

He would submit that the District Planning Committees are constituted under Article 243 ZD of the Constitution of India. The term of the office of the elected members of the District Planning Committee is co-terminus with their term in respective local authority.

He would further point out that by virtue of section 4(2A) of the Act of 1998, one seat has to be reserved for scheduled tribe in District Planning Committee where such district does not have a separate District Planning Committee exclusively for the Tribal Sub-Plan (**TSP**). Since district Dhule falls in TSP area, no seat is reserved for S.T. category in the District Planning Committee. Merely because the local MLA has approached the Government and the replies have been filed by the Government mentioning that it is thinking of providing for reservation to S.T., the impugned communication has been issued without there being any power or the authority in the State Government. The communication be quashed and set aside and direction be issued for completing the election process.

4. Learned Government Pleader rebutting the affidavits-in-replies submits that since there is no reservation for S.T. category as

per the representation of the local MLA, the impugned communication was made and the Government would issue appropriate direction and instructions.

5. Learned AGP would further refer to the provisions of section 12 of the Act of 1998 and submits that the State Government has the power to issue directives to the District Planning Committees with regard to guidelines on functioning, resolution adopted and any other matter fit to be taken up with the committee and this power would even include the power to direct postponement of the elections for the appropriate reason.

6. We have considered the rival submissions and perused the papers.

7. There is no dispute about the fact that the process of election of the District Planning Committee had commenced with a programme published on 08-08-2022, pursuant to the order of this Court in writ petition no. 2452 of 2022 dated 04-04-2022 (supra). This Court had directed the respondents to complete the election process within eight weeks.

We do not feel it appropriate to go into the dispute as to if the direction was obeyed in strict sense. The fact remains that pursuant to the directions of this Court, the election programme was published. The State was a party to that writ petition and in spite of

that by the impugned communication for whatever reason, the State Government has granted stay to the further process of election. It would be, in our considered view, an issue which would be bordering contempt.

8. Going by the impugned communication, one cannot make out the reason which prompted the State Government to stall the ongoing election process. It is only the respondents' affidavits in reply, that they are now coming with a stand that a local MLA had approached the State Government by making representation and pointing out that there is no representation for the S.T. category persons. Be that as it may. We are only concerned with the powers of the State Government to issue any such direction stalling the further progress of the election process which had already commenced when it was under an obligation in view of our direction in writ petition no. 2452 of 2022. Issuing such impugned communication stalling the election process midway that too without informing this Court much less seeking any leave or extension to complete the election process does not behove with the State.

9. The provision of section 2(2A) of the Act, when admittedly Dhule district which falls under Tribal Sub-Plan, there cannot be any reservation for the S.T. category which fact has been specifically admitted in the affidavit in reply filed by the State (paragraph no. 7),

irrespective of the intention of the State Government, so long as there is no statutory provision earmarking any reservation for S.T. category in the Dhule District Planning Committee which falls under TSP, the action of the State in issuing the impugned communication and stalling the ongoing election process, cannot be said to be having any legal basis and would constitute arbitrary exercise of the powers.

10. The writ petition is allowed.

11. We quash and set aside the impugned communication and direct the respondents to commence the election process from the stage it had reached and conclude it as expeditiously as possible and in any event within six (6) weeks from today.

12. Rule is made absolute in the above terms.

[Y. G. KHOBRADE]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/