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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 2460 OF 2021

Bodalappa Ramchandra Koli ... Petitioner

V/s.

The State of Maharashtra and Ors. ... Respondents

with

INTERIM APPLICATION NO. 1631 OF 2022

Prajakta Sanjay Sabale ... Intervener/Applicant

In the matter of

Bodalappa Ramchandra Koli ... Petitioner

V/s.

The State of Maharashtra and Ors. ... Respondents

Mr. Bhushan Walimbe a/w. Priyal Gopaldas Sarda for the Petitioner

Ms. Sarika Shetye i/b. Sachindra B. Shetye for the Respondents

Mr. S.P. Rajephandhare for the Applicant/Intervener

Ms. A.A. Purav, AGP for the Respondent – State

***CORAM : S.V. GANGAPURWALA &
M.G. SEWLIKAR, JJ.***

DATE : 27 APRIL 2022

P.C. :-

Learned Counsel for the Petitioner submits that the post of Sarpanch of Grampanchayat, Takali, Taluka - South Solapur, District - Solapur is reserved for S.T.(Women). However, no candidate belonging to S.T. (Women) was elected as a member of Grampanchayat. The Respondents, during the process undertaken for change in reservation for the post of Sarpanch of Grampanchayat approached this Court. This Court stayed the election for the post of Sarpanch on 6th July 2021. According to the learned Counsel, bye-election for the post of Member, Grampanchayat, Takali was held in December 2021 and candidate belonging to S.T. (Women) category has been elected. The post of the Sarpanch can be filled in from the Scheduled Tribe category.

2. Learned AGP and the learned Counsel for the Intervener submit that as per Rule 4A of the Maharashtra Village Panchayat (Sarpanch & Upsarpanch) Election Rules, 1964, if the candidate of Scheduled Caste or Scheduled Tribe Category is not available, then the said post would be filled in by draw. In the present case the process was almost concluded and post was reserved for S.C. (Women). This fact was not brought to the notice of this Court when this Court had granted stay on 6th July 2021. According to the learned Counsel, the post is now meant for Scheduled Caste (Women).

3. It is not a matter of dispute that the post of Sarpanch for Grampanchayat, Takali was reserved for Scheduled Tribe (Women). No candidate had filled in the form from S.T. (Women) category. As such the post of Sarpanch was not filled in.

4. It appears during the interregnum the Respondents started process under Rule 4A of the Election Rules, 1964. However, the process could not be completed. The process of election for the post of Sarpanch under order 6th July 2021 is stayed by this Court.

5. Election for the post of Sarpanch could not be held as per the change of reservation resorted to by the Respondents and the stay was granted by this Court. Now, the Scheduled Tribe (Women) is available. She was elected in December 2021.

6. If the post of Sarpanch is filled in from S.T.(Women) category, then in that case the balance of reservation would be maintained. Fortunately, now as the candidate from the S.T. (Women) category is available, the Respondents can fill in the post of Sarpanch of Grampanchayat, Takali from S.T. (Women) category.

7. With the aforesaid observations and directions, the Writ Petition is disposed of. No costs.

8. In view of the Writ Petition, Interim Application stands disposed of.

(M.G. SEWLIKAR, J.)

(S.V. GANGAPURWALA, J.)

JYOTI
PRAKASH
PAWAR

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