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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2380 OF 2022

Prakash Narayan Harake,

Age 40 Years, Occ. Business

R/o. At post Pondewadi,

Tal. Ambegaon, Dist. Pune.

At present R/o. Bhondve Tower,

F-201, Spine Road, MIDC Police Station,

Sector No.6, Moshi PMRDA, Moshi,

Pune – 412 205.

.. Petitioner

Versus

1. Shri. Anil Kisan Walunj,

Age : 45 Years, Occu. Contractor,

R/o. Pondewadi, Tal. Ambegaon, Dist. Pune.

2. Returning Officer (Shri. V.H. Koli),

Age :- Adult. Occu. Service,

R/o. Panchayat Samiti Ambegaon,

Tal. Ambegaon, Dist. Pune.

3. The Tahasildar,

Tal. Ambegaon, Dist. Pune.

.. Respondents

.....

- Mr. Y. B. Lengare, Advocate for Petitioner.
- Mr. Hrishikesh Giri i./by Mr. Prashant M. Patil, Advocate for Respondent No.1.
- Mr. S. H. Kankal, AGP for Respondent No.3 – State.

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 01, 2023.

JUDGMENT:

1. The present Writ Petition takes exception to the impugned Judgment and Order dated 21.01.2022 passed by the Civil Judge, Junior Division, Ghodegaon, Tal. Ambegaon, District Pune (for short

“**the Trial Court**”) in Election Petition No.01 of 2019 whereby the election of Respondent No.1 as Sarpanch of Village Pondewadi, Tal. Ambegaon, Dist. Pune has been set aside and seeks a further clarification / modification of the said judgment. By the said Judgment, the Returning Officer and Tahsildar, Tal. Ambegaon, District Pune who are Respondent Nos.2 and 3 herein have been directed to take further necessary steps after the Appeal period is over.

2. Petitioner seeks modification of the impugned Judgment and Order dated 21.01.2022 to the extent that in addition to what has been directed by the learned Trial Court, this Court should further direct that the Petitioner is declared as elected to the post of Sarpanch.

3. In order to appreciate the *lis* between the parties and the relief sought by the Petitioner, such of the relevant facts which are necessary for consideration are outlined herein under:-

- (i) Election for the post of Sarpanch, Village Pondewadi, Tal. Ambegaon, District Pune was held on 26.09.2018 and result was declared on 27.09.2018. Respondent No.2 was the Returning Officer and Respondent No.3 was the controller of the election campaign. Petitioner and Respondent No.1 submitted their nomination forms and stood for the election for the post of Sarpanch. The election was held. Respondent No.1

obtained 910 votes and Petitioner obtained 220 votes.

Respondent No.1 was elected as Sarpanch.

- (ii) At the time of scrutiny the Petitioner submitted that written objection alongwith evidence against the nomination of Respondent No.1 on the ground of suppressing material information of offences and criminal cases pending against him, despite which nomination form of Respondent No.1 was accepted.
- (iii) At that time, Petitioner filed Writ Petition No.26605 of 2018 in this Court challenging the acceptance of the nomination form of Respondent No.1. The said Writ Petition came to be disposed of with direction to institute proceedings before the appropriate forum in accordance with law.
- (iv) After declaration of the result, Petitioner instituted the Election Petition No.01 of 2019 before the learned Trial Court challenging the election of Respondent No.1 as Sarpanch under Section 15 of the Maharashtra Village Panchayats Act, 1958 (fort short **“the said Act”**). Petitioner also sought a declaration that Petitioner should be declared as Sarpanch of Village Pondewadi. Respondent No.1 has filed his written statement at

Exhibit '29' to the said Election Petition and resisted the objections raised by the Petitioner. By the Judgment and Order dated 21.01.2022 which is impugned in the present Writ Petition. The learned Trial Court allowed the Election Petition with costs and declared the result of election dated 27.09.2018 of electing Respondent No.2 as Sarpanch to be quashed and set aside.

- (v) In addition to above certain other facts are also required to be placed on record namely that Petitioner alongwith one other person namely Mr. Baban Namdeo Walunj filed a complaint on 04.04.2019 against Respondent No.1 before the Collector, Pune seeking his disqualification to be a member of the Village Panchyat under Section 14(1)(j-1) of the said Act on the ground that he had more than two children from his two wives namely Neelam and Geeta. According to the Petitioner, Respondent No.1 had two daughters namely Sakshi and Sonali from his first wife Neelam and third daughter namely Durva from his second wife Geeta. Petitioner in his complaint submitted that birth certificate of the two daughters Sakshi and Sonali issued by the appropriate authority about which there was no dispute and in

addition thereto also submitted birth certificate dated 13.02.2017 issued by the Government of Maharashtra, Health Department (Gram Panchayat Office Wagholi, Tal. Haveli) certifying the birth of third daughter / child Durva on 01.02.2017 which had the name of Respondent No.1 as her father and Geeta Anil Walunj as her mother.

- (vi) The Collector, Pune after examining the above material and evidence of Respondent No.1 having three daughters, passed order dated 29.01.2020 disqualifying Respondent No.1 as Sarpanch / member of the Gram Panchayat, Pondewadi.
- (vii) Being aggrieved, Respondent No.1 challenged the above order of disqualification by filing the statutory Appeal before the Additional Divisional Commissioner, Pune. By order dated 23.02.2021, the Appellate Authority partly allowed the Appeal and remanded the case back to the Collector, Pune for reconsideration.
- (viii) Being aggrieved, by the order dated 23.02.2021 passed by the Additional Divisional Commissioner, Pune, Petitioner and Mr. Baban N. Walunj filed Writ Petition No.1023 of 2021 in this Court challenging the said

order. This Court after considering the facts of the present case and submissions made by the parties, on 15.09.2021 admitted the Writ Petition and stayed the order dated 23.02.2021 passed by the Additional Divisional Commissioner, Pune.

(ix) For convenience and reference, it is deemed appropriate to reproduce the order dated 15.09.2021 passed by this Court. The said order reads thus:-

“ *Heard learned Counsel for the parties.*

1 *The present proceedings reflects the extent to which a person can stretch his personal life to pursue his political ambitions.*

2 *This is a peculiar case. Respondent No.4 is an elected member of Grampanchayat and thereafter a Sarpanch, who was held to be disqualified under Section 14(1)(j-1) of the Maharashtra Village Panchayatas Act, 1959 (the ‘Act’), for having more than two children, by an order dated 29 January 2020 passed by the Collector. The Petitioners had made a complaint that Respondent No.4 had three children from two wives - Neelam and Geeta. Respondent No.4 was the father of two daughters from his first wife Neelam and father of the third daughter - Durva, from his second wife Geeta.*

3. *An appeal was preferred by Respondent No.4 from such order passed by the Collector, which has been allowed by the Additional Divisional Commissioner, Pune Division, by the impugned order dated 23rd February, 2021, whereby he has set aside the disqualification of respondent no.4, while ordering a fresh inquiry.*

4. *The disqualification provision of Section 14(1)(j-1) of the Act reads thus:-*

“14. Disqualification. -

(1) No person shall be a member of a Panchayat or continue as such, who:-

to

(j)

(j-1) has more than two children]

Provided that, a person having more than two children on the date of commencement of the Maharashtra Village Panchayats, and the Maharashtra Zilla Parishads, and Panchayat Samitis (Amendment) Act, 1995 (hereinafter in this clause referred to as “the date of such commencement”), shall not be disqualified under this clause so long as the number of children he had on the date of such commencement does not increase:

Provided further that, a child or more than one child born in a single delivery within a period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification mentioned in this clause; or].”

5. *After hearing the learned Counsel for the parties, on the admission of this Petition and on interim reliefs, it prima facie appears that the Additional Divisional Commissioner was wholly unjustified in doing so. The reasons for this interim order are hereafter discussed.*

6. *On 26th September, 2012, elections of the Pondewadi Gram Panchayat, were held. Respondent No.4 – Anil Kissan Walunj contested the election from Ward No.999 which was reserved for Sarpanch and was elected.*

7. *The Petitioners filed a complaint on 4th April, 2019, against Respondent No.4. The case of the Petitioners-Complainants before the Collector was of Respondent No.4 being disqualified to be a member of the Village Panchayat under Section 14(1)(j-1) of the Act i.e. on the ground that he had more than two children from his two wives namely Neelam and Geeta. Petitioner contended that Respondent No.4 had two daughters namely, Sakshi and Sonali from his first wife Neelam and the third daughter Durva from his second wife Geeta. There was no dispute about the birth certificates of the two daughters – Sakshi and Sonali. Also the Government of Maharashtra, Health Department (Gram Panchayat Office Wagholi, Taluka Haveli) issued a birth certificate dated 13th February, 2017, certifying the birth of the third child Durva on 1st February, 2017. The certificate bears Respondent No.4's name as her father and Geeta Anil Walunj as her mother.*

8. *The Collector, Pune examining the materials before him and the clear evidence of Respondent No.4 having three daughters passed an order on 29th January, 2020, disqualifying Respondent No.4 as a Sarpanch/ Member of Grampanchayat, Pondewadi. This order of the Collector was challenged by Respondent No.4 in an Appeal before Respondent No.2 - Additional Divisional Commissioner, Pune, who by the impugned order dated 23rd February, 2021 has partly allowed the Appeal.*

9. *Mr. Lengare, learned Counsel for the Petitioners submits that the impugned order passed by the Additional Divisional Commissioner Pune is ex-facie, illegal inasmuch as there was no ground whatever for the said authority to set aside the dis-qualification order when there was unimpeachable material on record pointing out that indisputedly Respondent No.4 had two daughters – Sakshi and Sonali from his first wife Neelam, and the third child – Durva from the second wife Geeta. The documents also indicated that both the marriages were subsisting. The Petitioners placed on record birth certificates of all the three daughters including of the third child – Durva, which showed Respondent No.4 to be the father.*

10. *Mr. Lengare, has also drawn the Court's attention to a Marriage Petition No.407 of 2014 filed by Respondent No.4 against his second wife – Geeta whereby he prayed for restitution of conjugal rights. The said Petition was filed on 27th October, 2014. According to the Petitioners, the filing of such Petition by Respondent No.4 went to show that Geeta was his wife. Mr. Lengare has also placed reliance upon a statement made by second wife – Geeta wherein the record shows that she had married Respondent No.4 and from the said marriage, they have a girl child named Durva. These documents were part of the enquiry before the Collector. Thus, there was sufficient material which could show that Respondent No.4 has third child namely Durva from his second wife Geeta.*

11 *Mr. Lengare has also argued that, significantly, to get over all these admitted facts and after the Collector passed the order dated 29th January, 2020 disqualifying Respondent No.4, belatedly, on 25th February, 2020 Respondent no.4 filed a suit in the Court of Civil Judge at Ghodegaon against his second wife Geeta and the third child Durva (Defendant Nos. 1 and 2 therein), praying for a declaration that Defendant No.2 – Durva is not his child and that the documents showing Durva to be his daughter be declared to be false and bogus. Interestingly, no interim relief was granted in the said suit. The said suit is pending before the Civil Court.*

12 *Considering the majority of the above indisputed facts, in my opinion, there was more than sufficient material on record in the enquiry as conducted by the Collector, sufficient for him and for any reasonable body of persons to come to a conclusion that Respondent No.4 was married to Geeta and that third child Durva was their third daughter. There was nothing on record to indicate that the birth certificate issued in favour of the third daughter Durva showing Respondent No.4 as her father could be said to be illegal or not acceptable in law. It is, hence, prima facie, difficult to accept the view taken by the Additional Divisional Commissioner to upset the Collector's order, on an extremely feeble reasoning, when he gives a weight-age to the suit filed by Respondent No.4 against the second wife and minor daughter Durva by discarding the abundant material, and that the third daughter Durva was Respondent No.4's daughter.*

13 *In my prima facie opinion, learned Counsel for the Petitioners appears to be correct in his contention that the reasons which are set out by the Additional Divisional Commissioner, Pune in passing the impugned order are in fact, contrary to the record and far from the satisfactory to upset the dis-qualification of Respondent No.4 as a member of the Village Panchayat as ordered by the Collector. It is surprising how the Additional Divisional Commissioner, Pune in the impugned order attributes relevance to the subsequent suit filed by Respondent No.4, challenging issuance of the birth certificate in favour of daughter – Durva, indicating his name along with wife Geeta to be the parents of daughter – Durva. It was quite clear that the suit so filed by Respondent no.4 was purely an afterthought and intended to pursue his political ambitions. The Additional Divisional Commissioner was quite adventurous in setting aside the dis-qualification of Respondent No.4 as seen from the facts in hand.*

14. *In the above circumstances, Petition would require final hearing.*

15. *Hence, **Admit.***

16. *Pending the final hearing of the Petition, the impugned order dated 23rd February, 2021 passed by the Additional Divisional Commissioner, Pune shall remain stayed.*

17 *Respondents to file reply affidavits within a period of six weeks from today. Liberty to the parties to apply after the pleadings are complete.”*

3.1. In the above facts and circumstances of the present case, Petitioner has invoked the provisions of Section 15(2) of the said Act and has sought modification of the Judgment and Order dated 21.01.2022 to the extent that this Court should declare the Petitioner as elected to the post of Sarpanch for the remainder of the tenure of Village Pondewadi Gram Panchayat (Ward No.999 reserved for Sarpanch).

4. Mr. Lengare, learned Advocate for Petitioner would submit that in so far as Respondent No.1’s election as Sarpanch is concerned, Petitioner has raised objection against the Respondent No.1 contesting

the said election even before the election was held and when the nomination form was filed by Respondent No.1. He would submit that Respondent No.1 was guilty of non-disclosure of the offences registered against him under Sections 107 and 108 of the Indian Penal Code, 1860 (for short “**IPC**”) read with Section 26(1)D, 26(1)F, 26(1)G and 26(1)H of the Indian Forest Act, 1927 and Section 9 of the Wild Animal Protection Act, 1972 which was not disclosed by Respondent No.1. Further Respondent No.1 failed to disclose his profession as a Contractor and further offences registered against him under Sections 376(1), 496, 504 and 506 of the IPC read with Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short “**POCSO Act**”). He would submit that Petitioner has submitted copies of the First Information Reports and charge sheet in support of his complaint / objections against Respondent No.1.

4.1. In that view of the matter, he would submit that the impugned order has been passed in the Election Petition after due consideration of the material evidence on record has been correctly passed against Respondent No.1 whereby the election of Respondent No.1 has been set aside. He would thus submit that as a consequence of setting aside of the election of Respondent No.1 it is incumbent and also mandatory to declare the Petitioner elected as Sarpanch in place of Respondent No.1 which has not been done so in the impugned

Judgment and Order dated 21.01.2022. He has placed reliance upon the provisions of Section 15(2) of the said Act in support of his above propositions which reads thus:-

“15(2). Any enquiry shall thereupon be held by the Judge and he may after such enquiry as he deems necessary pass an order, confirming or amending the declared result, or setting the election aside. For the purposes of the said enquiry the said Judge may exercise all the powers of a Civil Court, and his decision shall be conclusive. [If the election is set aside, a date for holding a fresh election shall forthwith be fixed under Section 11.].”

4.2. In addition thereto, he has also placed on record a decision of the Court of Civil Judge, Junior Division, Kudal in Election Petition No.01 of 2015 in the case of ***Sunita Waman Kalelkar Vs. Returning Officer and Anr.***, delivered on 21.12.2015 in an Election Petition under Section 15(1) of the said Act and contended that the facts of the said case / decision are identical to the present case and considering the provisions of Section 15(2) of the said Act, it is incumbent upon the learned Trial Court while deciding the Election Petition to declare the Petitioner herein as elected for the post of Sarpanch. He has placed reliance on Paragraph Nos.28 to 30 of the said decision which are reproduced herein under:-

“28. The arguments have to be scrutinized on the basis of two principles i.e. throw away votes and interpretation of statutes, as in Section 15(2) “or” is used between the terms “amending the declared result” and “setting the election aside”. In case of principle of throw away votes, if any elected candidate’s election is set asided for want of qualification, even if voters who voted in favour are not aware about it, such a votes are throw away votes and cannot be taken into account against other persons contesting against him. But this principle now

does not hold good ground and it is settled that fresh election should be ordered.

29. *Regarding the question of interpretation the word “or” does not generally mean “and” and “and” does not generally mean “or”, but those words can be read vice versa if obliged by intention of the statute. In this matter it is admitted that only two persons i.e. petitioner and respondent Ankita contested the election from the category of woman from backward class.*

The Section 15(2) of the Act is reproduced here as -

“Sec.15(2) Any enquiry shall thereupon be held by the Judge and he may after such enquiry as he deems necessary pass an order, confirming or amending the declared result, or setting the election aside. For the purposes of the said enquiry the said Judge may exercise all the powers of a Civil Court, and his decision shall be conclusive. If the election is set aside, a date for holding a fresh election shall forthwith be fixed under Section 11.”

Thus three contingencies provided in the Act. Firstly Judge may confirm the election, amend the declared result or set the election aside. First contingency is covered if the petition is dismissed. The second contingency is covered by the situation like the present one, wherein only two persons petitioner and respondent, contested the election, there is no scope for third person. The last contingency in my opinion is in respect of an election where there are more than two persons contested the election. Therefore, in last two contingencies in which petitions have to be allowed the word “or” is used in between them, it needs to be construed as “and” and as such rather than declaring fresh elections the petitioner needs to be declared as elected by setting aside the election of respondent Ankita and amending it. The Act obliged to do so by express implication exerting its intention in clear terms.

30. *In view of above discussion it is established that respondent Ankita was under qualifying age when contested the election and her election is not valid. So also in view of above legal position the petitioner needs to be declared elected. Therefore, I recorded my findings on Point No.1 in the negative and Point No.2 in the affirmative, accordingly order-*

ORDER

A. *Petition is allowed.*

B. *The election of Respondent No.2, Kum. Ankita Gurunath Nevagi, as a Member of Group Village Panchayat of Gothos, from the category of Backward Class (Woman), stands set asided and petitioner Sou. Sunit Waman Kalelkar, is herewith declared as elected for the said post.*

C. *The copy of this order shall be sent to Collector, Sindhudurg.*

D. No order as to costs.”

4.3. Next he has placed reliance upon another decision of the Rajasthan High Court in the case of *Ishar Ram Vs. Padamnath and Ors.*¹ decided on 19.09.1983 and contended that when there are two contestants in an election and out of which one is disqualified, then the other candidate is entitled to be declared as elected.

4.4. He has also placed reliance on the decision in the case of *Konappa Rudrappa Nadgouda Vs. Vishwanath Reddy and Anr.*² and contended that the Supreme Court has also endorsed the above view that on declaration of an election as void, the votes cast in favour of the elected candidate must be treated as thrown away votes and as there was no other contesting candidate, the Petitioner should be declared as elected to the seat.

5. *PER-CONTRA*, Mr. Giri, learned Advocate for Respondent No.1 has drawn my attention to the Affidavit-in-Reply dated 02.12.2022 and contended that pursuant to the impugned Judgment and Order dated 21.01.2022 read with the provisions of Section 15(2) of the said Act it is incumbent upon the Petitioner to have approached the concerned authorities as directed in the said order for conducting fresh election. However, considering the fact that the Petitioner alongwith Baban N. Walunj has already approached this Court in Writ

1 1983 DGLS (Raj.) 190

2 AIR 1969 SC 447

Petition No.1023 of 2021 with respect to the same election and stay order having been obtained staying the order of the Appellate Forum's order, the Petitioner cannot seek any modification of the impugned order at this stage. He would submit that modification of the order and declaring the Petitioner to be elected as Sarpanch in the impugned order would necessarily affect the substantive right of Respondent No.1 in the pending Writ Petition No.1023 of 2021 filed by the Petitioner himself wherein a stay is in operation which is infact in favour of the Petitioner. He would submit that Petitioner should have ideally sought immediate hearing and disposal of the Writ Petition No.1023 of 2021 filed by the Petitioner in such circumstances and approached the Competent Authority for conduct of fresh elections in accordance with the statutory provisions of law.

5.1. Finally, he would submit that on a bare reading of the provisions of Section 15(2) of the said Act it is contemplated that if the election is set aside, a date for holding a fresh election shall forthwith be fixed under Section 11 of the said Act. However, he would submit that in view of the substantive interim order passed by this Court admitting the Petitioner's Writ Petition No.1023 of 2021, unless and until the said Writ Petition is decided, the authorities would wait for the outcome of the said decision until declaring a fresh election. In that view of the matter, he would submit that the present Writ Petition deserves to be dismissed.

6. Mr. Kankal, learned AGP appearing for Respondent No.3 has drawn my attention to the Affidavit-in-Reply dated 03.12.2022 filed by Respondent No.3 – Tahsildar, Ambegaon, Tal. Ambegaon, District Pune and contended that considering the aforementioned facts an appropriate order be passed by this Court in the present Writ Petition. He has drawn my attention to paragraph No.6 of the Affidavit-in-Reply and contended that reading of Section 15(2) of the said Act does not envisage any provision for declaring the candidate who has got the second highest number of votes in the election as having been elected in the event if the election proceedings are set aside. He would submit that once the election is set aside, a date for holding a fresh election is required to be fixed forthwith under Section 11 of the said Act. He would submit that in the present case though the substantive order challenged in the Writ Petition is passed on 21.01.2022 setting aside the election, this Court is already seized with another Writ Petition filed by the Petitioner alongwith one another person challenging the same election namely Writ Petition No.1023 of 2021 wherein the order dated 15.09.2021 staying the order of the Appellate Authority is in operation. He would submit that the said order was in existence on the date on which the present impugned Judgment and Order dated 21.01.2022 was delivered. In that view of the matter, he would submit that appropriate order be passed by this Court in accordance with law.

7. I have heard Mr. Lengare, learned Advocate for Petitioner; Mr. Giri, learned Advocate for Respondent No.1 and Mr. Kankal, learned AGP for Respondent No.3 and with their able assistance perused the record of the case. Submissions made by Advocates / AGP has received due consideration of this Court.

8. On the above facts the controversy is narrowed down to the interpretation of the provisions of Section 15(2) of the said Act. For convenience, Section 15(2) is reproduced herein under:-

“15(2). Any enquiry shall thereupon be held by the Judge and he may after such enquiry as he deems necessary pass an order, confirming or amending the declared result, or setting the election aside. For the purposes of the said enquiry the said Judge may exercise all the powers of a Civil Court, and his decision shall be conclusive. [If the election is set aside, a date for holding a fresh election shall forthwith be fixed under Section 11.]”

9. Perusal of the above provision clearly shows that in the event if the election is set aside, a date for holding the fresh election shall forthwith be fixed under Section 11 of the said Act. Mr. Lengare has however laid thrust on the opening lines of the said provision namely “..... pass an order, confirming or amending the declared result, or setting the election aside”. The said submission cannot be accepted to mean that there is a power contained in Section 15(2) of the said Act to amend the declared result to the extent that the candidate who has secured the second highest number of votes

should be declared as elected in the event if the election result is set aside. If such an interpretation as put forth and vehemently argued by Mr. Lengare is accepted, it would render the later part of the aforesaid provision namely “..... if the election is set aside, a date for holding a fresh election shall forthwith be fixed” as nugatory and complete redundant. This cannot be the intention of the legislature. It is trite that election statutes are required to be interpreted strictly as they stand without imputing any explanation or interpretation contrary to what is stated in the statute. The provision of Section 15(2) of the said Act as seen are plainly simple and cannot be interpreted to mean that in the event if the election is set aside, the election result should be amended to the extent of declaring the candidate securing the second highest number of votes as being elected for the remainder of the term / tenure. In fact there is no such provision contemplated by the said enactment.

9.1. In that view of the matter, I am not inclined to accept the submissions of Mr. Lengare.

10. Mr. Lengare has further emphasized on the word “..... amending the declared result.....” as appearing in Section 15(2) of the said Act and would submit that this would empower the Court to declare the Petitioner (second highest number of votes) as the elected candidate, once the election of Respondent

No.1 is set aside.

10.1. However, in view of the above observations and findings, I am once again not inclined to accept the submissions made by Mr. Lengare. In so far as the above proposition is concerned, once it is clear that in the substantive provision that if the election is set aside, a date for holding a fresh election shall forthwith be fixed under Section 11 of the said Act, there is no question about declaring the Petitioner as having been elected for the remainder of the term. In the impugned Judgment and Order, the learned Trial Court has therefore rightly directed Respondent Nos.2 and 3 to take further steps after the appeal period is over.

11. In view of the above observations and findings, the challenge to the Judgment and Order seeking modification thereof to the extent of declaring the Petitioner as having been elected as Sarpanch pursuant to the setting aside of the election of Respondent No.1 stands squarely rejected. Writ Petition fails.

12. Writ Petition is dismissed.

13. However, there shall be no order as to costs.

[MILIND N. JADHAV, J.]

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