

Anand

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

WRIT PETITION NO. 8522 OF 2023

Smt. Kiran Ravindra Jadhav

.Petitioner

Vs.

The State of Maharashtra through its Principal
Secretary & ors.

.Respondents

Mr. Shilpan Gaonkar a/w. Mr. Nikhil Patil i/b. Mr. P. M. Jadhav,
Advocate, for the Petitioner
Mr. P. P. Pujari, AGP, for Respondent Nos. 1 to 3 - State
Mr. A. V. Pawaskar, Advocate, for Respondent No. 4
Mr. Dileep Satale, Advocate, for Respondent Nos. 6 to 11
Mr. S. B. Shetye a/w. Mr. Akshay S. Pansare, Advocate, for
Respondent No. 12 - SEC

CORAM : MADHAV J. JAMDAR, J.

DATE : 09.11.2023

P. C.

1. Heard Mr. Gaonkar, learned counsel appearing for the
Petitioner, Mr. Pujari, learned AGP, appearing for Respondent
Nos. 1 to 3 - State, Mr. Satale, learned counsel appearing for
Respondent Nos. 6 to 11 and Mr. Shetye, learned counsel
appearing for Respondent No. 12 - SEC. I have heard
Mr. Pawaskar, learned counsel appearing for Respondent No. 4
on the earlier occasion.

2. By the present Writ Petition, the challenge is to the

legality and validity of the order dated 31.05.2023 passed by the Divisional Commissioner, Konkan Division, Navi Mumbai, by which Grampanchayat - Ukshi, Taluka - Sangmeshwar, District - Ratnagiri has been dissolved. The factual position on record clearly shows that the said Grampanchayat has seven members and out of seven members, six members have resigned and therefore, the said order has been passed.

3. It is the submission of learned counsel appearing for the Petitioner that the Petitioner is the sarpanch and a woman belonging to Scheduled Caste category. She has also contested the said election on the post reserved for a female Scheduled Caste candidate and just to ensure that woman belonging to Scheduled Caste should not remain sarpanch, other members have resigned. It is the submission of learned counsel appearing for the Petitioner that there are no allegations whatsoever against the Petitioner and even 'Motion of No Confidence' has not been moved against her and no allegations of misconduct are made against her. Only with a view to prevent a woman belonging to Scheduled Category to be Sarpanch of the Grampanchayat, Respondent Nos. 6 to 11 have resigned. He, therefore, submitted that the order dissolving the Grampanchayat - Ukshi be quashed

& set aside and the bye election be held for the posts of members which have become vacant due to resignation of Respondent Nos. 6 to 11.

4. Mr. Satale, learned counsel appearing for Respondent Nos. 6 to 11 submits that he has no objection for the said course of action.

5. Mr. Pawaskar, learned counsel appearing for the Respondent No. 4 who made submissions on the earlier occasions submitted that the Respondent No. 4 - Chief Executive Officer has already submitted proposal for conducting bye election to the vacant post.

6. Mr. Shetye, learned counsel appearing for the State Election Commission states that the State Election Commission has already received requisition from the Collector, Ratnagiri for holding bye election for the vacant posts of members. He states that accordingly, the bye election will be held in the next round of the Grampanchayat election. Mr. Shetye, learned counsel appearing for the Respondent No. 12 states that same shall be held as early as possible.

7. Accordingly, the impugned order dated 31.05.2023 passed by the Divisional Commissioner, Konkan Division, Navi Mumbai is quashed & set aside.

8. The State Election Commission to expeditiously conduct bye election for the posts of members of said Grampanchayat which became vacant due to resignation by the Respondent nos. 6 to 11.

9. Till bye elections for the vacant posts are held, ad-interim relief granted by order dated 14.07.2023 with modification as set out herein below shall remain in operation.

The said order dated 14.07.2023 reads as under :-

“1. Issue notice to the respondents, returnable on 04 August 2023.

2. Learned AGP waives service of notice on behalf of respondent Nos. 1 to 3.

*3. The learned counsel for the petitioner on instructions states that the Administrator has not yet taken charge. In that view of the matter, till next date, there shall be ad-interim relief in terms of prayer clause (B). **However, the petitioner shall not take any policy decision.**”*

(Emphasis added)

The said prayer clause (b) reads as under :-

“(B) Pending the hearing and final disposal of this Petition, this Hon’ble Court may be pleased to stay the execution, implementation, operation and effect of the (i) the impugned order dated 31.05.2023 passed by Respondent No. 2; (ii) consequential official gazette dated 01.06.2023, to this extent; and (iii) order dated 02.06.2023 passed by the Respondent No. 4 for appointing an administrator on Respondent No. 5 Grampanchayat”

It is further clarified that above relief granted on 14.07.2023 stands modified to the extent that if any major policy decision or major monetary decision is required to be taken, then the Petitioner shall take such decision in consultation with the CEO/the Deputy CEO of Zilla Parishad, Ratnagiri.

10. The Writ Petition is disposed of in above terms with no order as to costs.

(MADHAV J. JAMDAR, J.)