

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

CIVIL APPLICATION (W) NO. 520/2023

IN

WRIT PETITION NO. 1305/2022

Smt. Bharati w/o. Vasant Eshtam Vs. State of Maharashtra and Ors.

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

Court's or Judge's order

Mr. S. S. Taram, Advocate for Petitioner.
Mr. S. M. Ukey, Addl. G.P for Respondents 1 & 2/State.
Mr. M. I. Dhatriak, Advocate for Respondent 3.

**CORAM : ROHIT B. DEO AND
MRS.VRUSHALI V. JOSHI, JJ.**
DATED : 09.03.2023

. Although the learned Counsel for the Municipal Council Mr. Dhatriak is seriously objecting to the proposed amendment, we find that the proposed amendment is necessary for effective adjudication.

2. The petitioner, by amending the petition, is assailing the conversion or reconstitution of the erstwhile Gram Panchayat, Bhamaragad into Nagar Panchayat, Bhamaragad. The challenge is on the touchstone of the constitutional provisions *inter alia* Part-IX-A and Article 243-ZC. It is further contended that in view of sub-paragraph (1) of paragraph 6 of the Fifth Schedule to the Constitution of India, it is the Hon'ble President of India, who is entitled to include/cover, Bhamaragad and adjacent villages in the Fifth Scheduled Area declaration and unless there is a law made by the Parliament, by issuing a notification in purported exercise of power under Article 243-Q(2), the State

Government could not have converted Bhamaragad from Gram Panchayat to Nagar Panchayat.

3. In any event, no prejudice shall be caused to the respondents who may file an appropriate response to the amended petition.

4. We allow the Civil Application (W) No.520/2023.

5. The amendment be carried out within a week.

6. The copy of the amended petition be supplied to the other side.

7. The response to the amended petition may be filed within three weeks from the date of the copy of the amended petition is supplied.

8. The Civil Application is disposed of accordingly.

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. Stand over to 30.03.2023.

(MRS.VRUSHALI V. JOSHI, J.)

(ROHIT B. DEO, J.)

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