

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

CIVIL APPLICATION NO. 1518/2023 IN
WRIT PETITION NO. 2482/2023

Khairunisa w/o Sheikh Chand
vs
Chandrashekhar Daulatrao Chincholkar and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr S.V. Sohoni, advocate for the petitioner.

Holding advocate of Mr Ram Karode, advocate for Respondent No.2.

Ms Jaipurkar, AGP for the respondent Nos. 3 and 4.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 16/05/2023.

1. By filing this writ petition, the petitioner has challenged the order passed by the Divisional Commissioner, Amravati, maintaining the order of District Collector, Akola disqualifying the petitioner to become a member of the Gram Panchayat Wadegaon under the provisions of Section 14(1) (j-1).

2. The petitioner has contended that she has only two children from her husband Sheikh Chand, and her husband Sheikh Chand is having a child from his second wife. Therefore, she cannot be disqualifying for the reason that she is having three children. The District Collector, Akola has disqualifying the petitioner holding that she is having more than two children and therefore, she is not entitled to contest the election. In view of the provisions of Section 14(1) (j-1)

of the Maharashtra Village Panchayat Act on the ground that the petitioner is having more than two children.

3. By this application, the petitioner submitted that if the by-election is held on 18/05/2023 then she will be deprived of contesting the election. In fact, she is disqualified illegally and arbitrarily, and therefore, the execution and operation of the order passed by respondent No.4 deserve to be stayed.

4. The said application is strongly opposed by the State on the ground that once the election is declared, it cannot be stayed in view of the observation of the judgment of the Full Bench of this Court. Since the issue has been referred to the Hon'ble Chief Justice and the matter is pending as the reference is made. Admittedly, the prayer of the stay of the petitioner cannot be granted. However, considering the issue raised by the petitioner, the result of this by-election would be subject to the outcome of the instant petition.

JUDGE