



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5976 OF 2022

PRATIBHA GOVIND PANDEJI

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE DEPARTMENT OF RURAL
DEVELOPMENT AND OTHERS

Mr. K. F. Shingare, Advocate for the petitioner

Mr. K. B. Jadhavar, AGP for the respondent/State

Mr. U. S. Patil, Advocate for respondent nos. 6 and 7.

WITH

WRIT PETITION NO. 5968 OF 2022

SHIVRAM JAGANNATH MHASKE

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE DEPARTMENT OF RURAL
DEVELOPMENT AND OTHERS

Mr. K. F. Shingare, Advocate for the petitioner

Mr. K. B. Jadhavar, AGP for the respondent/State

Mr. U. S. Patil, Advocate for respondent nos. 6 and 7.

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 27th AUGUST, 2024

P.C. :-

1. The petitioner who is a member of village panchayat raised the challenge to the proceeding of meeting convened for election of Sarpanch and Upsarpanch of the village. The election dispute was filed before respondent no.3-Collector, Aurangabad on two grounds, firstly, the notice of meeting was not complying requirement of Rule 4 of the

Bombay Village Panchayats (Sarpanch & Upsarpanch) Election Rules, 1954 (for short 'the Rules') as three clear days notice was not served to the members of the village panchayat. Secondly, the elections symbols were allotted instead conducting election by raising of the hands. The District Collector after considering the rival submissions rejected the dispute vide order dated 18/11/2021. The petitioner preferred appeal No. 64 of 2021 before the Divisional Commissioner under Section 33 (5) Maharashtra Village Panchayats Act. Learned Divisional Commissioner also dismissed the appeal and confirmed the order of District Collector.

2. Aggrieved by the aforesaid decisions, the petitioner approached this Court under Article 227 of the Constitution of India.

3. Mr. Shingare, learned Advocate appearing for the petitioner submits that there was no compliance of requirement of Rule 4 as three clear days notice was not given to the members although, he admits that the notice was served on 04/02/2021 and meeting was held on 08/02/2021. According to him in between there were two holidays, therefore, the notice does not meet with requirement. He would further submit that the allotment of symbol was illegal in terms of Rule 13 of the Village Panchayat Election Rule. In support of his contentions he relies upon the judgment of the Supreme Court in case of **Jaenendrakumar Phoolchand Daftari Vs. Rajendra Ramsukh Mishra and others, AIR 1994**

SC 586.

4. Learned Advocate appearing for respondent nos. 6 and 7 as well as learned AGP supports the impugned order.

5. Having considered the submission advanced it can be noted that Rule 4 of the Bombay Village Panchayats (Sarpanch & Upsarpanch) Election Rules, 1954 mandate that the Presiding Officer shall cause a notice of meeting to be given to every person of panchayat at least three clear days before the date of such meeting. In present case admittedly the notice was served on the members on 04/02/2021 and meeting was held on 08/02/2021. Therefore, there is no room to contend that three clear days notice was not given in terms of the requirement of Rule 4. Although Mr. Shingare, learned Advocate for the petitioner contends that there were two holidays between, he could not bring to the notice of this Court any material in support of his preposition. Both the authorities have concurrently held that there was compliance of the requirement of Rule 4. No perversity or error is discernable from the approach of authorities on this point.

6. So far as another contention raised on behalf of the petitioner that the allotment of symbol was illegal in the facts of the case, it can be observed that the Rule 10 of Election Rules prescribes procedure of the

election of Sarpanch and Upsarpanch, the Rule 10(2) provides that the election shall be by show of hands, however, if any member present at the meeting demands that voting shall be by the ballot such mode can be adopted. As can be seen from the minutes of meeting, the petitioner himself appears to have demanded voting by ballot. Consequently, the symbols were allotted and the voting by ballot was conducted. Therefore, no illegality can be found in the procedure followed at the meeting. Both the authorities have elaborately dealt with aforesaid contentions and rejected the same. This Court do not find any error in impugned orders. No case is made out to cause interference under Article 227 of the Constitution of India. Hence, petitions stand dismissed.

(S. G. CHAPALGAONKAR, J.)

ssp