



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.6995 OF 2024

**SARASWATI GANESHRAO CHAVAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS.**

...
Shri R.J. Nirmal, Advocate for the Petitioner.
Shri R.K. Ingole, AGP for Respondent Nos.1, 3, 4 and 5/State.
Shri A.B. Kadethankar, Advocate for Respondent No.2.

...
**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 08th July, 2024

Per Court :-

1. Not on the Board. Mentioned at 10:30 AM. Taken
on the Production Board.

2. By this Writ Petition, the Petitioner has put forth
prayer clauses B, C and D as under:-

*“B] By issuing appropriate writ or order or
direction in like nature, quash and set aside
order dated 02/07/2024 passed by respondent
no.5 bearing outward no. 2024/GRA.P.NI/
election/ KaVi -116 and notice to petitioner and
other panchayat members dated 02/07/2024
and quash and set aside the election process of
Sarpanch post of village Satefal Tq. Purna Dist,
Parbhani to be held on 09/07/2024.*

*C] By issuing appropriate writ or order or
direction in like nature, direct the respondents*

to take the election of the vacant post of member from ward no.2 Open Category of village Satefal Tq. Purna Dist, Parbhani.

D] Pending hearing and final disposal of this writ petition, stay to the implementation, execution and operation of order dated 02/07/2024 passed respondent no.5 bearing outward no. 2024/GRA.P.NI/election/KaVi -116 and notice to petitioner and other member dated 02/07/2024.”

3. It is undisputed that the Sarpanch unfortunately passed away on 31.05.2024. There are total nine members in Satefal Village Panchayat, Taluka Purna, District Parbhani. Because of the death of the Sarpanch, one post of a member has also fallen vacant and now there are eight members available. The Collector has issued an election notice on 02.07.2024 and the election to the post of Sarpanch is scheduled on 09.07.2024.

4. The contention of the Petitioner, who is one of the elected members of the Village Panchayat, is that unless the post of a member, which has fallen vacant due to the demise of the Sarpanch, is filled in, there should not be an election for the post of Sarpanch.

5. We have perused Section 43 of the Maharashtra

Village Panchayats Act, which specifically mandates that any vacancy of which notice has been given to the Collector in the prescribed manner, due to the disablement, death, resignation, disqualification, confirmation of no confidence motion, absence without leave or removal of a Sarpanch or Up-Sarpanch, shall be filled in and the person being elected to fill in the said post, shall continue in the office so long as the deceased Sarpanch/ Up-Sarpanch would have held the office if the vacancy would not have occurred. The proviso there below mandates that such post of Sarpanch or Up-Sarpanch upon falling vacant shall be filled in within 30 days from the date of the vacancy. The fact is that the Sarpanch has passed away on 31.05.2024 and the election is scheduled on 09.07.2024, for electing a Sarpanch.

6. Rule 11 of the Maharashtra Village Panchayats (Sarpanch and Upa-Sarpanch) Election Rules, 1964, mandates that the quorum necessary for the meeting to be called for holding the election to the post of Sarpanch or Up-Sarpanch, shall be one half of the total number of members of the Panchayat. Today, there are 08 members in the said Panchayat. It needs to be seen as to what would be the quorum on the day of

the meeting since sub-rule (2) below Rule 11 mandates that, if within 30 minutes from the time fixed for the meeting, there be no quorum, the Presiding Officer shall adjourn the meeting. Sub-rule (4) of Rule 11 indicates that the meeting adjourned under sub-rule (2), shall be held again on the next day at the same place and hour and a notice of such adjournment shall be fixed on the notice board of the office of the Panchayat and the election shall be held at such adjourned meeting or at any subsequent adjournment thereof, whether there be quorum present or not.

7. In view of the above, we are not inclined to accept the request of the Petitioner that the election to the post of Sarpanch should be deferred, until the post of member of the Gram Panchayat, that has fallen vacant due to the death of the Sarpanch, is filled in by the Election Commission.

8. In view of the above, this **Writ Petition is dismissed.**

kps (Y. G. KHOBRAGADE, J.) (RAVINDRA V. GHUGE, J.)