

Sumedh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13002 OF 2024

Bramhadeo Mahadeo Kangude ...Petitioner

Versus

The State of Maharashtra & Ors ...Respondents

Mr Sarang Satish Aradhya, with *Shantanu C Gurav, Shruti Kothavade, Gauri Velankar, for the Petitioner.*

Mr PG Sawant, AGP, for the Respondent Nos. 1 to 4–State.

Mr Sachindr aB Shetye, for Respondent No. 9.

CORAM: M.S. Sonak &
Kamal Khata, JJ

DATED: 12th September 2024

PC:–

1. Heard learned counsel for the parties.

2. The only grievance in this Petition is that the meeting scheduled tomorrow, i.e., on 13 September 2024, to elect an Upsarpanch to the village Panchayat of Umbare–Page should be stayed or deferred until bye–elections to fill up vacancies to the two posts of Panchas/members is completed.

3. Learned counsel for the Petitioner submits that notice dated 02/07/2024, the election scheduled for fill up these two vacancies has already been announced. He, therefore, submits that the meeting to elect an Upsarpanch should be deferred until this election is concluded.

4. No legal provision or principle is shown in support of the submission made. Besides, it is not the law that the post of Sarpanch or Upsarpanch should be kept vacant until all bye-elections conclude. Ultimately, such posts are filled in by adhering to democratic principles where the majority plays a significant role. If support for the petitioner increases after the bye-elections or the power equation tilts, the sarpanch or the upa sarpanch can always be voted out. However, the pendency of the bye-elections is not a good enough reason to defer the election scheduled for tomorrow. No relief as sought in this Petition can be granted without any statutory provision to back the same.

5. Mr Aradhye, learned counsel for the Petitioner, relies upon the judgment and order dated 17 July 2015 in Writ Petition No. 7197 of 2015 (Pandhari S/o Malhari Jadhav & Ors vs State of Maharashtra & Ors) to contend that this Court has taken the view that elections should be deferred and an administrator should be appointed to govern the panchayat until bye-elections conclude.

6. We have perused the decision, including the observations in paragraphs 4 and 5 of this decision. The observations were made based on the peculiar facts of that case, which are not obtained in

the present case. The bye-elections, in that case, were to conclude on 25/07/2015, and the elections for electing Sarpanch and Upsarpanch were scheduled hardly a week earlier, i.e., on 19/07/2015. Besides, that was a case of holding the first meeting soon after the conclusion of the elections. All such peculiar facts do not obtain in the present case. Therefore, the decision relied upon can be of no assistance to the Petitioner.

7. This Petition is accordingly liable to be dismissed and is hereby dismissed.

8. There shall be no orders for costs.

(Kamal Khata, J)

(M.S. Sonak, J)