

Pallavi

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.10975 OF 2024
IN
WRIT PETITION NO. 3438 OF 2021**

Rahul Pandurang Shelar	...Applicant
<i>In the matter between</i>	
Shri. Rahul Pandurang Shelar and Ors.	...Petitioners
<i>Versus</i>	
The State of Maharashtra and Ors.	...Respondents

Mr Vaibhav V Ugle, a/w Mr. Vikas Somawanshi for the Applicant.
Ms. M.P. Thakur, AGP, for the Respondent – State.

**CORAM M.S. Sonak &
 Arif S. Doctor, JJ.
DATED: 6th August 2024**

PC:-

1. Heard the learned counsel for the parties. The Petitioners are the residents of Waghjai Nagar within the jurisdiction of the Kharabwadi Gram Panchayat, District Pune.

2. By instituting this Petition, they seek the establishment of an independent Gram Panchayat for Waghjai Nagar on various grounds, including the grounds that this area was specially established to rehabilitate the persons affected by the construction of Pavana Dam. Besides that, the learned counsel for the Petitioners refers to the Government Resolutions dated 5th February 1990, 12th February 2004

and 2nd December 2019 to submit that this area fulfils the requirements specified for establishing an independent Gram Panchayat.

3. The Petitioners made representations to the Respondent Nos.3 and 4. However, since these representations were not attended to, they have instituted this Petition seeking a Writ of Mandamus to the Respondents to establish a separate Gram Panchayat for Waghjai Nagar. In the alternate, the Petitioners have prayed that their representations dated 29th November 2017 and 29th June 2020 should be considered following law by the State Authorities and some decision be taken thereon within a time-bound schedule.

4. Although we may not be in a position to issue a mandamus to the Respondents to directly establish a separate Gram Panchayat for Waghjai Nagar merely because the Petitioners claim that this area fulfils the requirements spelt out in the Government Resolutions and the Notifications referred to in prayer clause (a), directions can always be issued to the concerned Respondents to consider the Petitioners' representations following law and on their own merits.

5. Unfortunately, the Petitioners have addressed the representations to the Block Development Officer ("BDO") and the Chief Executive Officer ("CEO") of Pune. Although these Authorities may be concerned with the decision-making process, they are not the Authorities responsible for establishing an independent Gram Panchayat.

6. The learned AGP submits that such decisions are taken by the State Government acting through its Rural Development Department.

Accordingly, we permit the Petitioners to make a detailed representation to the Secretary, Rural Development Department, Government of Goa and also to the Chief Secretary, State of Maharashtra (by way of abundant caution) within a period of two weeks from today. If such representations are made, we direct the State Government through its concerned Departments to consider and dispose of such representations on their own merits and per law as expeditiously as possible and preferably within three months from the date such representations are made. The decision on such representations must be communicated to the Petitioners, preferably within three months of receiving such representations.

7. The Petitioners have taken out an Interim Application seeking a stay on the elections to the Kharabwadi Gram Panchayat. According to us, such relief is quite misconceived and cannot be granted. The legal position is quite well settled that the Courts do not normally interfere with the election process unless an extraordinary case is made out. Here, the Petitioners have made out no case to seek restraint on the elections to the existing Gram Panchayat. The elections cannot be stayed because Waghjai Nagar may or may not be carved up as a separate Gram Panchayat sometime in the future. Accordingly, the Interim Application is liable to be dismissed and is hereby dismissed.

8. The petition is disposed of with the above directions, but the Interim Application is dismissed without any order of costs. All concerned to act upon an authenticated copy of this order.

(Arif S. Doctor, J)

(M.S. Sonak, J)

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