



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 WRIT PETITION NO. 12863 OF 2025

Basawantrao Sidramappa Mule

VERSUS

State Of Maharashtra Through Secretary And Others

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Advocate for Petitioner : Mr. P. B. Gapat

AGP for Respondents: Mr. R.B. Dhaware

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CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

Dated : November 27, 2025

PER COURT :-

1. Present petition has been filed to challenge the order dated 19.8.2025, passed by the respondent no.5.
2. Heard learned advocate for the petitioner.
3. By order dated 13.11.2025 we had directed that there should be affidavit-in-reply filed within a period of one week on behalf of the respondents, however, that affidavit-in-reply has not been filed. Learned AGP is producing a communication to him by the respondent no.5, who is also a Election Officer for Nagar Parishad Election of Tulajapur that he is unable to remain present. In fact, it was a question of filing the affidavit-in-reply. Further, minutes of the meeting, which appears to

have been held on 10.7.2025, has been signed by respondent nos.4 and 5. Thereafter, challenging the same, representation was filed by the petitioner to respondent no.2-Collector, Dharashiv on 15.7.2025 and, thereafter, respondent no.4 directed the Respondent no.5 to decide the said representation/complaint and then, the impugned order dated 19.8.2025 came to be passed or representation was decided. The affidavit could have been filed by respondent no.4 also when the minutes have been signed by respondent no.4. Now, today with the signature of respondent nos.4 and 5 a modified order appears to have been issued, the copy of which is now tendered by the learned AGP. It is marked Exhibit "X". Now, when there was minutes of the meeting and it was not an order, how Exhibit-X has been titled as 'Sudharit Aadesh' is also a question. Be that as it may, the position that remains is that as on today, there is no affidavit-in-reply.

4. Petitioner has raised a simple question. It is stated that the draw in respect of the reservation for the post of 'Sarpanch' in Tuljapur Taluka for the year 2020 to 2025 which was held on 22.1.2021 showed that post of 'Sarpanch' for the village Borgaon was reserved for Women (General). He states that the

post of 'Sarpanch' for village Borgaon was not reserved for Women from any category for the year 2015. Therefore, the same came to be reserved for Women Category for the year 2020 to 2025. He has produced document to show that by way of minutes of the draw, which was taken in the year 2021. Respondent no.1 had issued Notification dated 5.3.2025 and then specified the number of offices of Sarpanchas in the Village Panchayats in the State (excluding the Scheduled Areas declared by the Government of India) for the Scheduled Castes, the Scheduled Tribes, the category of Backward Class of Citizens and Women (including the women belonging to the Scheduled Castes, Scheduled Tribes and category of Backward Class of Citizens). The draw was held in pursuant to the said notification on 16.4.2025. According to the petitioner, at the time of draw, office of Sarpanch of village Borgaon ought not have been considered for the Women category in view of Rule 2-A (2). In the said draw held on 10.7.2025, by way of chit, the Office of Sarpanch of village Borgaon, then reserved for General Woman for term 2025 to 2030. Therefore, he raised a complaint/representation on 15.7.2025 and then, the impugned communication dated 19.8.2025 has been received by him.

5. It appears that the respondents are taking the stand that as per notification dated 13.6.2025, the reservation for the post of Sarpanch in 621 Grampanchayats in Dharashiv Districts was scheduled, out of them as per the minutes 18 seats were reserved for SC category (out of that 9 for women and 1 for ST category). Number of reservation for women, other backward class was 29 seats out of which 15 were for female and in all 60 seats were there, out of which 30 were for women.

6. Though, in the said minutes, the earlier reservations were considered village-wise and name of village Borgaon was then appearing for 'SC category' in 2005, it appears from the earlier reservation i.e. for the year 2022 to 2025 seat for the Sarpanch at village Borgaon was reserved for Women candidate from General Category. Rule 2-A of the Bombay Village Panchayats (Sarpanch and Upa-Sarpanch) Election Rules, 1964 deals with the reservations of seats for the Election of Sarpanch, which reads thus :-

2A. Reservation of seats for the election of Sarpanch :-

(1) The State Government shall by notification in the Official Gazette, specify the number of offices of Sarpanch in the Village Panchayats [other than the village Panchayats comprising entirely the Scheduled Areas) in the State to be reserved for the Scheduled Castes, the Scheduled

Tribes, the category of Backward Class of citizens and women (including the women belonging to the Scheduled Castes, the Scheduled Tribes, and the category of Backward Class of citizens).

(2) The State Government shall, by notification in the Official Gazette, allot the offices of Sarpanch to be reserved for the Scheduled Castes, the Scheduled Tribes, the category of Backward Class of citizens and women as specified under sub-rule(1) to districts as follows:-

(a) The offices to be reserved for the Scheduled Castes and Scheduled Tribes in each district shall be allotted in such manner that such reservation shall bear, as nearly as may be, the same proportion to the total number of offices of Sarpanchas in the District as the population of the Scheduled Castes and Scheduled tribes in that District bears to the total Population of that District :

(b) The offices to be reserved for the category of Backward Class of citizens in each District shall, as far as practicable, be allotted in proportion of twenty seven percent of the total number of offices of Sarpanch in that District -

(c) The offices to be reserved for the women (including the women belonging to the Scheduled Castes, the Scheduled Tribes and the category of Backwards Class of citizens) in each District shall, as far as practicable, be allotted in proportion of one-third of the total number of offices of Sarpanch in that District.

(3)(a) The Collector shall, by order, distribute and notify the offices of Sarpanchas to be reserved for the Scheduled Castes and the Scheduled Tribes allotted under sub-rule (2), among the Tahsils, having regard to the proportion of the population of such Castes and Tribes in the Tahsil to the total population of that Tahsil ;

b) the collector shall, by order, distribute and notify the offices of Sarpanch to be reserved for the category of Backward Class of citizens allotted

under sub-rule (2), among the Tahsil, in proportion of twenty-seven percent of the total offices of the Sarpanch in that Tahsil.

(4) The Collector shall allot the offices of Sarpanch in the District to be reserved for women (including the women belonging to the Scheduled Castes, the Scheduled Tribes and the category of Backwards Class of citizens) by drawing lots according to the instructions given by the State Government from time to time.

Provided that, the lots in respect of the women belonging to the Scheduled Castes, the Scheduled Tribes and the category of Backward Class of citizens shall be drawn only among the offices of Sarpanch reserved for such Castes, Tribes or as the case may be, for the category of Backward Class of citizens :

Provided further that, while rotating such offices in the subsequent elections, the Panchayats where such offices were already reserved in earlier elections for women (including the women belonging to the Scheduled Castes, the Scheduled Tribes and the category of Backward Class of citizens) shall be excluded until in all such panchayats reservation of offices is given, by rotation.

(4A) Notwithstanding anything contained in these rules, if the office of the Sarpanch is reserved for the Scheduled Castes, or the Scheduled Tribes or, as the case may be, the category of Backward Class of citizens (including Vimukta Jatis and Nomadic Tribes), and no elected member belonging to such Cases, Tribes or as the case may be, the category of Backward Class of citizens is available, then such office for the same tenure shall be allotted by draw of lots to any of the categories for which the office of the Sarpanch may be reserved under Section 30 of the Act :

Provided that, in case where there is only one elected member belonging to a particular category for which such office has been reserved and has, filed the nomination form, then such office shall

be declared for such member and if there are one or more elected members of such category and none of them have filed the nomination form, then such office for the same tenure shall be allotted by draw of lots to any of the categories for which the office of the Sarpanch may be reserved under Section 30 of the Act :

Provided further that, in a case where the office of the Sarpanch is reserve for women belonging to the Scheduled castes or the Scheduled Tribes or, as the case may be, the category of Backward Class of citizens (including Vimukta Jatis and Nomadic tribes), and no elected women member belonging to such Castes or Tribes or as the case may be, the category of Backward Class of citizens, is available then the office of the Sarpanch, for the same tenure, shall be treated as : -

(i) if originally reserved for women belonging to the Scheduled Castes, then for the Scheduled Castes,

(ii) if originally reserved for women belonging to the Scheduled Tribes, then for the Scheduled Tribes and,

(iii) if originally reserved for women belonging to the Backward Class of citizens, then for the Backward Class of citizens.]

7. The second proviso to sub-rule (4) is therefore important, which states that, if in the earlier election office was already reserved for women including women belonging to the Scheduled Castes, Scheduled Tribes and the Category of backward class of citizens, then the said office should be excluded in the rotation until all such Panchayats Office is given reservation by rotation. It appears from the minutes of

the meeting dated 10.7.2025, that this proviso was not considered at all and then again by way of chit, the office of Sarpanch at village Borgaon is reserved for women candidate from open category. When, the reservation appears to be not as per the rules i.e. reservation in the meeting dated 10.7.2025 is not as per the rules, the order/communication dated 19.8.2025 deserves to be quashed and set aside. Accordingly, we set aside the order/communication dated 19.8.2025 as well as minutes of the meeting dated 10.7.2025 to the extent of village Borgaon. The Respondent nos.2 to 5 are directed to conduct fresh draw for allotment of the reservation for the office of Sarpanch at village Borgaon, Tq. Tuljapur, District Dharashiv within a period of Fifteen (15) days from today.

8. With these observations, we **dispose of** the writ petition.

(HITEN S. VENEGAVKAR, J.) (SMT. VIBHA KANKANWADI, J.)

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