



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 7126 OF 2024

- 1] Gram Panchayat, Yerkheda,
Tah. Kamptee, District-Nagpur,
through its Sarpanch Smt. Saritabai
Madhukar Rangari, Aged about 50
years, R/o. Yerkheda, Tah. Kamptee,
District-Nagpur.
- 2] Anil s/o Balaji Patil,
Aged about 50 years,
Occupation-Member, Gram
Panchayat, Yerkheda, R/o. Yerkheda,
Tah. Kamptee, District-Nagpur.
- 3] Smt. Rashida Begum Sayyed Asif,
Aged about 55 years,
Occupation-Member, Gram Panchayat,
Yerkheda, R/o. Yerkheda, Tah. Kamptee,
District-Nagpur.
- 4] Smt. Roshani Sachin Bhasme,
Aged about 35 years,
Occupation-Member, Gram Panchayat,
Yerkheda, R/o. Yerkheda, Tah. Kamptee,
District-Nagpur. .. Petitioners

.. Versus ..

- 1] The State of Maharashtra,
through its Secretary, Rural
Development Department,
Mantralaya, Mumbai-32.

- 2] The State of Maharashtra,
through its Secretary, Municipal
Councils, Municipal Corporations
and Nagar Panchayat Department,
Mantralaya, Mumbai-32.
- 3] The Collector, Nagpur having its
Office at Collectorate, Civil Lines,
Nagpur.
- 4] Zilla Parishad, Nagpur through its
Chief Executive Officer,
District-Nagpur.
- 5] The Block Development Officer,
Panchayat Samiti, Kamptee,
Tahsil-Kamptee, District-Nagpur. .. Respondents

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Shri R.L. Khapre, Senior Advocate assisted by Shri A.D. Dangore,
Advocate for Petitioners.

Shri D.V. Chauhan, Senior Advocate/Government Pleader assisted
by Shri A.M. Kadukar, AGP for Respondent Nos.1 to 3/State.

Shri Shivansh Dalvi, Advocate h/f Shri S.N. Gaikwad, Advocate for
Respondent Nos.4 and 5.

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CORAM : SMT. M.S. JAWALKAR, AND
PRAVIN S. PATIL, JJ.

RESERVED ON : 26th JUNE, 2025.
PRONOUNCED ON : 14th AUGUST, 2025.

JUDGMENT [Per : Pravin S. Patil, J.]

1. **Rule.** Rule made returnable forthwith. By consent of

the learned Counsel for the parties, the matter is taken up for final disposal.

2. By this petition, initially the petitioners seek declaration that there is no need of conversion of Gram Panchayat Yerkheda into Nagar Panchayat. However, during the pendency of the petition, in view of subsequent development, the present petitioners challenged the Government Resolution, dated 04.10.2024 and further seek direction to quash and set aside the final Notification dated 11.02.2025 and consequent order of appointment of Administrator dated 11.02.2025 issued by respondent no.1-Rural Development Department, State of Maharashtra.

3. The brief facts giving rise to the present petition are as under :

The petitioners are the Gram Panchayat Members who hold the post in view of Gram Panchayat Election held in the month of November, 2022. The present petitioner no.1 stated that after the period of 25 years, the scheduled caste candidate was given chance to head the Gram Panchayat and accordingly she is the first lady belonging to scheduled caste category who

was elected for the post of Sarpanch. It is further stated that the first meeting of Gram Panchayat was held on 06.01.2023 and accordingly the period of Gram Panchayat commenced for a period of 5 years from 06.01.2023.

4. After taking the charge by petitioner no.1 as a Sarpanch of Gram Panchayat Yerkheda on 11.07.2024, the Gram Panchayat received the communication from respondent no.5 i.e. Block Development Officer, Panchayat Samiti, Kamptee on the subject of conversion of Gram Panchayat Yerkheda into Nagar Panchayat and thereby directed to submit a proposal to his office in that regard.

5. The said communication issued by respondent no.5 was in turn of communication dated 11.07.2024 from the office of Collector as well as from the Chief Executive Officer, Zilla Parishad, Nagpur dated 09.07.2024. Hence, it is the submission of the petitioners that respondent no.3 and 4 are behind the issuance of communication dated 11.07.2024.

6. The petitioners stated that as they were newly elected Gram Panchayat members and their term was yet not

completed, after receipt of communication from respondent no.5, immediately meeting of the Gram Panchayat was called on 29.07.2024 and in that meeting, it was unanimously resolved not to convert the Gram Panchayat Yerkheda into Nagar Panchayat. The petitioners further relied upon the resolution of Gram Sabha dated 26.01.2024, wherein it was resolved that till the completion of tenure of newly elected Gram Panchayat members, the Gram Panchayat Yerkheda should not be converted into Nagar Panchayat. On the basis of this resolution, the communication was made with the respondent no.5-Block Development Officer and informed him about the decision of the Gram Panchayat that they are not consenting for conversion of Gram Panchayat into Nagar Panchayat.

7. It is further stated by the petitioners that after making representations to the respondent no.5, there was no response from the respondents and, therefore, petitioners along with the villagers approached to the Collector by tendering their representation dated 09.09.2024 and thereby informed the Collector that in the General Meeting of Zilla Parishad, Nagpur

held on 03.08.2024, Zilla Parishad has also taken a decision not to convert the village Gram Panchayat into Nagar Panchayat till the completion of 2½ years period of the Gram Panchayat members.

8. It is further submitted by the petitioners that though there was objection from all the villagers as well as Gram Panchayat members, Tahsildar, Kamptee on 02.09.2024 forwarded the draft proposal to the respondent no.5-Block Development Officer and on the same day, Block Development Officer forwarded the draft proposal prepared by his office to the Chief Executive Officer, Zilla Parishad, Nagpur. Along with the proposal, the objections raised by the petitioners and the resolutions were also enclosed.

9. The specific objection raised by the petitioners is that on 02.09.2024, the Collector, while addressing a letter to the Chief Executive Officer, Zilla Parishad, Nagpur, had specifically referred the communication of one Shri Gajanan Laxman Tirpude, President of the Bharatiya Janata Party, Yerkheda. On whose application, Hon'ble Chief Minister, Maharashtra State, has directed to prepare and forward the proposal of

conversion of Gram Panchayat into Nagar Panchayat. As such, according to the petitioners, only because of political interference, this entire process has been initiated, hence actually there is no demand to convert the Gram Panchayat into Nagar Panchayat.

10. As such, on the basis of above submission, petitioners approached to this Court by filing the petition on 01.10.2024 and thereby sought declaration that conversion of Gram Panchayat Yerkheda into Nagar Panchayat should not be permitted. This Court on 10.12.2024 issued notices in the matter to the respondents by considering the grievances raised by the petitioners in the matter.

11. During the pendency of the petition, Respondent no.1- State Government had issued the proclamation and draft notification dated 04.10.2024 by invoking the powers under Section 341-A of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (for short 'Act of 1965) to specify the local area of village panchayat Yerkheda in Nagpur District being an area in transition from a rural area to an urban area and to constitute a Nagar Panchayat by name

of 'Yerkheda Nagar Panchayat' in the said transitional area. On the basis of said draft notification, the objections were called from the members of village Yerkheda. In pursuance of the draft notification, the villagers as well as petitioners tendered their objections before the Collector. The petitioners as well as the villagers quoted reasons as to why the conversion of Gram Panchayat into Nagar Parishad should not be done in the matter.

12. After the objections raised by the petitioners, Respondent no.1 by its Government Resolution dated 11.02.2025, has taken the decision by issuing notification and accordingly specified the local area of village Yerkheda to be transitional area and for which there shall be constituted a Nagar Panchayat, as provided under Section 341-A (2) of the Act of 1965 by name of 'Yerkheda Nagar Panchayat'. In Scheduled 'A' and 'B', description of the transitional area and boundaries of the transitional area were also recorded in the notification itself. In consequence to the notification issued by respondent no.1, State Government appointed Naib Tahsildar, Kamptee as an Administrator of the Nagar Panchayat, till the

constitution of the Nagar Panchayat as per the provisions of law.

13. In view of further development, the petition has been amended and by amended prayer, the petitioners seek to quash and set aside Government Resolution dated 04.10.2024 and the final order and notification dated 11.02.2025 as well as the appointment of Administrator dated 11.02.2025.

14. In response to the notice issued by this Court to the respondents, Respondent no.2-Collector filed his affidavit dated 05.02.2025 and clarified that as per the Government Resolution dated 30.09.2024, it is permissible for conversion of Gram Panchayat into Nagar Panchayat after a period of one year of Gram Panchayat Elections. According to him, the first meeting being held on 06.01.2023. The period of one year had expired on 06.01.2024 and, therefore, the process initiated for conversion of Gram Panchayat into Nagar Panchayat by invoking the powers under Section 341-A of the Act of 1965 is justified as per the provisions of law. It is further submitted by respondent no.2 that after issuing preliminary proclamation by State Government dated 04.10.2024, he has called the

objections to the notification and hearing was conducted on 13.12.2024. He has enclosed the minutes of the proceedings dated 13.12.2024 to demonstrate the fact that all the objections raised before him was noted and forwarded to State Government in respect of preliminary proclamation issued by the State Government. He further stated that under the provisions of law, the Collector is not empowered to take decision on the grievance raised by the villagers and, therefore, on 03.12.2024 he has referred the minutes of proceedings with objections to Desk Officer, Urban Development Department. As such, considering the minutes of proceedings, the State Government had issued a notification dated 11.02.2025 and, therefore, there is no illegality of any nature in the present matter.

15. Respondent no.2 i.e. the State Government filed their affidavit dated 12.02.2025 stating that Article 243Q of the Constitution of India, empowers the constitution of a Nagar Panchayat for a transitional area. Hence, as per the parameters laid down in Article 243Q, the process of conversion of the Gram Panchayat into Nagar Panchayat was initiated in the

matter. He further stated that under Section 341-A of the Act of 1965 laid down criteria regarding transitional area for incorporation of a Nagar Panchayat, the same has been followed in the matter. It has been stated that for considering the population criteria of the village, decennial population census held in 2011 was considered, according to which, the population of Yerkheda Gram Panchayat was 15,727.

16. In respect of percentage of employment in non-agricultural activities, it is stated that non-agricultural employment percentage of village Yerkheda was found to be around 75% and same was certified by the Tahsildar, Kamptee, District-Nagpur by its Certificate dated 04.09.2024. In respect of term of Gram Panchayat, it is stated that as per the Government Resolution dated 30.09.2024, after lapse of one year period, the conversion of Gram Panchayat into Nagar Panchayat is permissible and, therefore, after completion of one year term of the Gram Panchayat, they have initiated the procedure.

17. It is further clarified that after issuance of preliminary proclamation, his office received the minutes of proceedings

from the office of Collector. There were total 48 objections. However, Respondent no.2 found that none of the objections demonstrate as to how the conversion of Gram Panchayat into Nagar Panchayat will cause prejudice. Hence, the State Government proceeded further in the matter and keeping in mind for better development of the village Yerkheda Nagar Panchayat is required to be constituted. It is further stated that the constitution of Yerkheda Nagar Panchayat will promote economic development and help commercial as well as industrial development in the area. It will improve education, health and social facilities and infrastructure like water, electricity, roads and sanitation. Hence, taking into consideration the entire factual position, final notification issued on 11.02.2025 is justified in the matter.

18. Learned Senior Counsel for the petitioners, in support of his submissions, has relied upon the following case laws :

(1) State of Maharashtra and another .vs. Jalgaon Municipal Council and others, reported in 2003 (5) Bom. C.R.709 (S.C.).

(2) Deep Narayan Chavan and others .vs. State of Maharashtra and others, reported in 2004

(Supp.) Bom. C.R. 662.

- (3) Abhishek Shankarrao Thakare and others .vs. District Deputy Registrar, Co-operative Societies, Yavatmal and others, reported in AIR Online 2014 Bom.3.*
- (4) State of Madhya Pradesh and others .vs. Sanjay Nagayach and others, reported in (2013) 7 SCC 25.*
- (5) State of U.P. and others .vs. Pradhan Sangh Kshettra Samiti and others, reported in 1995 Supp. (2) SCC 305.*
- (6) Baldev Singh and others .vs. State of Himachal Pradesh and others, reported in (1987) 2 SCC 510.*
- (7) Sunil Kailashchandra Rawat and others .vs. State of Maharashtra and others, reported in 2017 (3) Mh.L.J. 865.*
- (8) Deputy Commissioner of Income Tax and another .vs. Pepsi Foods Ltd. (Now Pepsico India Holdings Pvt. Ltd.) reported in AIR 2021 SC 2692.*
- (9) Dr. Subramanian Swamy .vs. Dr. Manmohan Singh and another, reported in AIR 2012 SC 1185.*
- (10) Village Panchayat, Dharna Wadhona, Buzruk and others .vs. Commissioner, Nagpur Division, Nagpur and others, reported in AIR 1967 Bombay 447.*

(11) Union of India and others .vs. V.R. Nanukuttan Nair, reported in (2019) 19 SCC 690.

(12) Nasiruddin and others .vs. Sita Ram Agarwal, reported in (2003) 2 SCC 577.

19. The learned Senior Advocate/Government Pleader appearing for the Respondents/State, in support of his submission, has relied upon the following case laws :

(1) Sundarjas Kanyalal Bhatija and others .vs. Collector, Thane, Maharashtra and others, reported in (1989) 3 SCC 396.

(2) Chhaya Vyankatrao Hajare and others .vs. State of Maharashtra and others, reported in 2010 (2) Mh.L.J. 339.

(3) Ramdas s/o Marotrao Kathle and others .vs. The State of Maharashtra and one, reported in 2016 SCC OnLine Bom. 8989 in Writ Petition No.1501/2016.

(4) Mr. Prakash s/o Gulabrao Domki .vs. State of Maharashtra and others in Writ Petition No.6672/2016, decided on 12.01.2017.

(5) Jaydeep Vilas Taware .vs. State of Maharashtra and others, reported in 2022 (3)

Mh.L.J. 719.

20. We have heard the respective counsels in the matter, perused the entire record and also considered the case laws which they have relied upon in the matter.

21. It is pertinent to note that respondent no.2 along with his affidavit-in-reply dated 12.02.2025 enclosed the copy of communication from the Gram Panchayat Yerkheda to the Block Development Officer, Panchayat Samiti, Kamptee dated 16.09.2022. Admittedly, this communication is from erstwhile Sarpanch and Village Development Officer, Gram Panchayat, Yerkheda, whereby they requested to convert the Gram Panchayat Yerkheda into Nagar Panchayat by giving the details such as population, non-agriculture employment percentage etc. of the village. This document placed on record by respondent no.2 is not denied by the petitioners. Admittedly, this communication was by erstwhile Sarpanch of village Yerkheda. Thus, it is clear that before election of the Gram Panchayat held in December, 2022, the request was already made to convert Gram Panchayat into Nagar Panchayat.

22. In the present petition, it is also clear from the record that the petitioners approached to this Court are the elected members of the Village Panchayat held in the month of December, 2022 and their prime submission is that till the completion of their term, the Village Panchayat should not be converted into Nagar Panchayat. In other way, it can be stated that there is no objection for the conversion subject to condition that same should be done after the completion of their term and, therefore, they are before this Court to challenge the Notification. However, according to us, it is now well settled principles of law that right to hold an electoral office is neither a fundamental nor common right and same is purely a statutory right. Hence, it cannot be said that there is a violation of any fundamental rights guaranteed under the Constitution of India. Therefore, we are of the opinion that the ground on which the petitioners are challenging the conversion is not sustainable in the eyes of law.

23. This Court, while dealing with identical issue, in the case of *Chhaya Hajare .vs. State of Maharashtra and others* (supra) in Para 12 observed as under :

12. There is substance in the submission that the petitioners have mainly challenged the final notification in the capacity as Members of the Village Panchayat. The petitioners who are residents of the area did not file any objection in the year 2002 to the initial proclamation. We do not find any substance in the submissions of the learned counsel appearing for the petitioners that till the Panchayat term expires in the year 2013, there could not be any conversion of the Village Panchayat into Nagar panchayat. We do not find any mandate of law supporting the contention of the counsel for the petitioners in this regard.

24. The further submission of the petitioners that after tendering the objections before the Collector by the petitioners as well as villagers, they were not communicated any reasons before issuing the final notification in the matter. In this regard, it is stated that Section 341-A (3) of the Act of 1965, it is not expected from the State Government to record the reasons as to why it finds the objections are insufficient or invalid. The powers to be exercised by the State Government are undisputedly quasi-legislative in nature. In this regard, Hon'ble Supreme Court in case of ***Sundarjas Kanyalal Bhatija*** (*supra*), observed in Para 27 and 28 as under :

27. Reverting to the case, we find that the conclusion of the High Court as to the need to reconsider the proposal to form the Corporation has neither the attraction of logic nor the support of law. It must be noted that the function of the Government

in establishing a Corporation under the Act is neither executive nor administrative. Counsel for the appellants was right in his submission that it is legislative process indeed. No judicial duty is laid on the Government in discharge of the statutory duties. The only question to be examined is whether the statutory provisions have been complied with. If they are complied with, then, the Court could say no more. In the present case the government did publish the proposal by a draft notification and also considered the representations received. It was only thereafter, a decision was taken to exclude Ulhasnagar for the time being. That decision became final when it was notified under [Section 3\(2\)](#). The Court cannot sit in judgment over such decision. It cannot lay down norms for the exercise of that power. It cannot substitute even "its juster will for theirs."

28. Equally, the rule issued by the High Court to hear the parties is untenable. The government in the exercise of its powers under [Section 3](#) is not subject to the rules of natural justice any more than is legislature itself. The rules of natural justice are not applicable to legislative action plenary or subordinate. The procedural requirement of hearing is not implied in the exercise of legislative powers unless hearing was expressly prescribed. The High Court, therefore, was in error in directing the government to hear the parties who are not entitled to be heard under law.

Hence, considering the quasi-legislative powers available with the respondent no.2, there is no necessity to give the reasons in the matter.

Further this Court in ***Writ Petition No.6672/2016 (Mr.***

Prakash s/o Gulabrao Domki .vs. State of Maharashtra and

others) decided on 12.01.2017 (supra), observed in para 20 as under :

20. In so far as the contention of the learned Counsel for the petitioner on the basis of sub-section (5) of Section 3 is concerned, the powers to be exercised by the State Government are undisputedly quasi-legislative in nature. The State Government is not expected to give reasons as to why it finds the objections to be insufficient or invalid. The parameters on which the exercise of quasi-legislative powers by an authority can be examined by this Court have been very well laid down by the Apex Court in the case of State of Tamil Nadu & another .vs. P. Krishnamurthy & others reported in (2006) 4 SCC 517. Their Lordships have observed as under :

“15. There is a presumption in favour of constitutionality or validity of a sub-ordinate Legislation and the burden is upon him who attacks it to show that it is invalid. It is also well recognized that a sub-ordinate legislation can be challenged under any of the following grounds :

a) Lack of legislative competence to make the sub-ordinate legislation.

b) Violation of Fundamental Rights guaranteed under the Constitution of India.

c) Violation of any provision of the Constitution of India.

d) Failure to conform to the Statute under which it is made or exceeding the limits of authority conferred by the enabling Act.

e) Repugnancy to the laws of the land, that is, any enactment.

f) Manifest arbitrariness/unreasonableness (to an extent where court might well say that Legislature

never intended to give authority to make such Rules).

Hence, we find no perversity on the part of Respondent No.1 while issuing final Notification in the matter.

25. In the present petition, learned Senior Counsel for the petitioners has heavily relied upon Section 4 of the Maharashtra Village Panchayats Act, 1959 (for short, 'Act of 1959') to contend that consultation with the Gram Panchayat before constituting Nagar Panchayat is must. However, there is no such consultation nor obtain consent of Gram Panchayat. Hence, entire action of the Respondents is vitiated. Hence, to consider and understand the submission of petitioners, Section 4 of the Maharashtra Village Panchayats Act, 1959 reproduced as under :

Section 4 : Declaration of village :

(1) [Every village specified in the notification issued under clause (g) of article 243 of the Constitution of India shall be known by the name of that village specified in that notification:]

Provided that, where a group of revenue villages or hamlets or other such administrative unit or part thereof is [specified in that notification] to be a village, the village shall be known by the name of the revenue village, hamlet or as the case may be,

administrative unit or part thereof, having the largest population.

(2) [Where the circumstances so require to include or exclude any local area from the local area of a village or to alter the limits of a village or that a local area shall cease to be a village, then the notification issued in the like manner after consultation with the Standing Committee and [the Gram Sabha and] the panchayat concerned, at any time, may provide to-]

(a) include within, or exclude from any village, any local area or otherwise alter the limits of any village, or

(b) declare that any local area shall cease to be a village;

and thereupon the local area shall be so included or excluded, or the limits of the village so altered, or, as the case may be, the local area shall cease to be a village.

26. According to the petitioners, in view of Section 4 of the Act of 1959, before declaring the area under the Yerkheda Gram Panchayat as a transitional area, the consultation with the Gram Panchayat was necessary as it has impact on the status of members constituting the Panchayat. However, there is no consultation with the Gram Panchayat and, therefore, entire process undertaken by the respondents is vitiated in the matter.

In support of his submission, the learned Senior Counsel for petitioners has relied upon the judgment in the case of *Village Panchayat, Dharna Wadhona, Buzruk and others .vs. Commissioner, Nagpur Division, Nagpur and others (supra), Deep Narayan Chavhan (supra) and State of Maharashtra and another .vs. Jalgaon Municipal Council and others (supra)*. The petitioners have relied upon para 38 in the case of Jalgaon Municipal Council, which reads as under :

Q.4. Want of consultation with Municipal Council - effect?

38. The learned Counsel for the appellants submitted that steps for constitution of Municipal Corporations fell within the purview of Section 3 of B.P.M.C. Act which requires the specification of larger urban area, and constitution of Municipal Corporations therein, to be preceded by a notification subject to the condition of previous publication. Consultation is not one of the requirements of [Section 3](#) and therefore the High Court went wrong in holding that for want of consultation, the process of constitution of Municipal Corporations of the city of Jalgaon was vitiated. With this submission we do not agree. The Jalgaon Municipal Council was already in existence, Jalgaon being smaller urban area. It was proposed to be converted into a larger urban area. This process would involve abolition of 'municipal area' as defined in within the Clause (24) of Section 2 of M.R. Municipal Council Act. Any of the events provided by Clauses (a), (b), (c) and (d) of sub-Section (1) of [Section 6](#) must satisfy the requirement of consulting the Municipal Council provided for by

provisio to sub-Section (1) before issuing the notification and before that, notification should also follow the procedure prescribed by Section 3 mutatis mutandis. Section 6(1)(d) covers within its scope any event, the declaration whereof has the effect of the whole of any area comprising a municipal area ceasing to be a municipal area. Thus conversion of Jalgaon Municipal Council to Municipal Corporations involves not only specification of large urban area and constitution of Municipal Corporations of city of Jalgaon, it also involves the whole of the local area comprising the municipal area of Jalgaon ceasing to be a municipal area with effect from the date of change. Therefore consulting the Municipal Council is mandatory.

27. Per contra, learned Government Pleader appearing for the respondent-State, has relied upon Section 3 of the Act of 1965 which reads as under :

Section 3. [Specification of areas as smaller urban areas]

[(1) A council for every municipal area existing on the date of coming into force of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1994, Maharashtra XLI of 1994, specified as a smaller urban area in a notification issued under clause (2) of Article 243-Q of the Constitution of India in respect thereof, shall be deemed to be a duly constituted Municipal Council known by the name Municipal Council.

(2) Save as provided in sub-section (1), the State Government may, having regard to the factors mentioned in clause (2) of Article 243-Q of the

Constitution of India, specify, by notification in the Official Gazette, any local area as a smaller urban area :

Provided that no such area shall be so specified as a smaller urban area unless the State Government, after making such inquiry as it may deem fit is satisfied that,

(a) the population of such area is not less than 25,000; and

(b) the percentage of employment in non-agricultural activities in such area is not less than thirty-five per cent.

(2A) For every smaller urban area so specified by the State Government under sub-section (2), there shall be constituted a Municipal Council known by the name Municipal Council.]

(3) Before the publication of a notification under [sub-section (2)] the State Government shall cause to be published in the Official Gazette, and also in at least one newspaper circulating in the area to be specified in the notification, a proclamation announcing the intention of Government to issue such notification, and inviting all persons who entertain any objection to the said proposal to submit the same in writing with the reasons therefor, to the Collector of the District within [not less than thirty days] from the date of the publication of the proclamation in the Official Gazette.

Copies of the proclamation in Marathi shall also be posted in conspicuous places in the area proposed to be declared as a municipal area.

(4) The Collector shall, with all reasonable despatch, forward any objection so submitted to the State Government.

(5) No such notification as aforesaid shall be issued by the State Government unless the objections, if any, so submitted are in its opinion insufficient or invalid.

28. According to learned Government Pleader, the bare perusal of Section 3 of the Act of 1965, nowhere referred about the consultation with the Gram Panchayat. As such, it is his submission that if under the scheme of the Act, 1965, there is no requirement of consultation with Gram Panchayat for its conversion to Nagar Panchayat, the submission of the petitioners is irrelevant and not acceptable. He has relied upon the judgment of this Court in the case of ***Jaydeep Vilas Taware .vs. State of Maharashtra and others*** (supra), in para 13, has observed as under :

13. The Petitioner has argued before us that the consent of the Malegaon (Budruk) Gram Panchayat is required to be obtained as a sine qua non in a democratically elected society for declaring the area under the Malegaon (Budruk) Gram Panchayat as a transitional area and constituting a Nagar Panchayat therefor. However, a bare reading of the provisions of Section 341 (1B) read with sub-sections 3, 4, and 5 of Section 3 shows that no such requirement is stipulated therein. It is clear that no consent of a Gram Panchayat

is required to be obtained before the State Government issues a notification declaring the area under the Gram Panchayat as a 'transitional area'.

29. In view of submission of both the parties and relying upon the judgments on the same issue, we have perused the judgment of ***Jalgaon Municipal Council and others*** (supra). From the perusal of the said judgment, it is clear that in that case the proposal was for converting the constitution of Jalgaon City from Municipal Council into Municipal Corporation. Accordingly, in the said judgment, Section 3 of the Bombay Provincial Municipal Corporations Act, 1949 was relied upon, wherein it is specifically mentioned that the State Government, after consultation with the Corporation, by Notification in the official gazette, altered the limits specified for any larger urban area. But in the present matter, considering Section 3 of the Act, 1965 states that the State Government, having regard to the factors mentioned in sub-clause (2) of Article 243-Q of the Constitution of India, by notification in the Official Gazette, can declare any local area as a smaller urban area. Section 3 of the Act of 1965 nowhere contemplates that consultation or

concurrence should be obtained from the Gram Panchayat while converting any local area as a smaller urban area. Therefore, we are not accepting the submission of the petitioners in the matter. Consequently, the reliance placed by the petitioners on the law laid down by Hon'ble Supreme Court in the case of *Jalgaon Municipal Council* (supra) is not applicable in the matter.

30. It is further pertinent to note that the perusal of Section 4 (2) of the Maharashtra Village Panchayats Act, 1959 clarify that where any local area of the village is required to include or exclude any local area or to alter the limits of a village or that a local area shall cease to be a village, then the notification issued in the like manner after consultation with the Standing Committee and the Gram Sabha is necessary. According to us, this provision contemplates that the consultation with the Standing Committee and Gram Sabha and the Panchayat is necessary, particularly when there is an alternation to include or exclude any local area or to alter the limits of a village or that a local area shall cease to be a village. According to us, Section 4 of the Act of 1959 is para-materia with Section 6 of

the Act, 1965. Section 6 of Act of 1965 contemplates consultation while altering the limits of Municipal Council. Hence, reliance of petitioners upon *Jalgaon Municipal Council* (supra) is not helpful to them.

31. It is further pertinent to note that the whole basis of submission of the petitioners is that in absence of consultation with the Gram Panchayat, action has been initiated and completed by the respondents. But from record it is revealed that after issuing the preliminary proclamation by the respondent no.2 on 04.10.2024, the petitioners as well as other villagers were called and hearing opportunity was granted to them by the Collector and their objections were recorded in the minutes of meeting held on 13.12.2024. Therefore, it can not be said that without taking into consideration the objections of the villagers, the respondent no.2 has issued impugned Notification dated 11.02.2025.

32. One thing which needs to be considered in the matter is that the primary objective of such a conversion is to facilitate efficient urban governance and ensure the overall development of the transitioning area. The conversion of Gram Panchayat is

in the broader public interest in providing urban infrastructure, regulatory frameworks and essential civic amenities to the villagers. As such, the decision to convert the Gram Panchayat is rooted with an objective of ensuring the welfare of its residents. This move on the part of government is always with the government's commitment to provide equitable growth opportunities and infrastructure that match the aspirations of the population, thereby paving the way for a prosperous and well-governed urban centre.

33. The judicial precedents have consistently held that when the state has duly complied with statutory requirements, including issuing preliminary notifications, inviting objections and considering local sentiments, the submission of the petitioners that due to political interference this entire exercise is done by the government cannot be accepted, because such submission is accepted, it will amount to override the legitimate purpose of ensuring good governance and sustainable development. Furthermore, the transition from a rural to an urban administrative framework is a legislative function aimed at aligning governance structures with the socio-economic

realities of the religion and same must be viewed through the lens of public welfare rather than political conjecture.

34. In the present petition, one of the objection raised by the petitioners is that on the same day i.e. on 04.10.2024 the draft notification as well as publication of proclamation was issued and same shows political interference in the matter. Furthermore, the petitioners have made allegations of malice in the matter. It is also submission of the petitioners that there is no consideration of the provision under Section 341-A of the Act of 1965, wherein the requirement such as population, percentage of employment in non-agricultural activities are not considered in proper perspective. In this regard, the respondents clarify that draft notification and proclamation is required to be issued as per the mandate of Section 4 (3) of the Act of 1965, which clearly contemplates that publication of notification in terms of sub-section (2) and Section 3 to be notified in the form of proclamation. As such, issuing such notification/proclamation is the intention of declaring certain areas as smaller urban areas and except that there is no other procedure provided under the act for issuing the proclamation.

In support of this submission, the respondents have also pointed out that in the same manner, the proclamations were issued in the village Kanhan, Pipri, Satrapur, Sihora of Taluka Parseoni, District-Nagpur, Gram Panchayat, Wadi, Gram Panchayat, Digdoh and Gram Panchayat, Besa Pipla. Hence, we do not find any material illegality in the matter while promulgating the Notification dated 04.10.2024 in the matter.

35. In respect of malice, we find that the allegations made by the petitioners are vague, sketchy and have no support in the form of material. It is clarified that as per the powers conferred to the State Government under Article 243Q of the Constitution of India, the entire procedure has been followed in the matter.

(i) In respect of non obtaining the consent or consultation with Gram Panchayat, it is clear that, there is no such procedure prescribed under Section 3 of Act of 1965, therefore, on this count, the allegation of malice or malafide intention does not establish in the matter.

(ii) In respect of criteria for considering the population of the village, the last decennial population census is required to be considered. As such, last census held by the

State Government in the year 2011 was considered in the matter. Respondents, to support this submission, has relied upon the definition of population which defines as under :

2. Definitions :

In this Act unless the context otherwise requires, -

(33) “population” means the population as ascertained at the last preceding census [of which the relevant figures “whether provisional or final” have been published].

[Explanation – For the purposes of this clause, the expression ‘published’ means the latest published relevant census figures; whether provisional or final, and in the absence of the latest relevant census figures, the relevant figures of the census immediately preceding the latest census, final figures of which have been published;]

According to the said census, the population of Yerkheda Gram Panchayat was 15,727. Hence, considering the said census, the population was considered which falls in consonance with the provisions of Section 341-A of the Act of 1965.

(iii) In respect of non-agricultural employment, the respondents have relied upon the Certificate issued by the Tahsildar of Kamptee, who categorically stated that non-agricultural employment, the percentage of the village Yerkheda

is around 75%. This certificate is not proved to be incorrect by petitioners.

(iv) In respect of requirement about the distance, it is clarified that Yerkheda Gram Panchayat is not more than 20 km away from the territorial limits of Municipal Corporation, Nagpur.

Hence, according to us, in the present matter, the respondents, while exercising the powers under Article 243Q of the Constitution of India read with Section 3 and 341-A of the Act of 1965, followed the entire procedure.

36. In the background of above said factual position and the perusal of the entire record satisfy the fact of the respondents had initiated the proceeding for conversion of Gram Panchayat Yerkheda into Nagar Panchayat by relying upon Article 243Q of the Constitution of India. We further concluded that as per Section 3 of the Act of 1965, there is no need of consultation with the Gram Panchayat and under Section 341-A of the Act of 1965, the necessary requirement is followed in the matter.

37. In the circumstances, we find no merit in the submission of the petitioners that entire action initiated by the respondents only out of political vendetta. On the other hand, the required procedure for converting Gram Panchayat into Nagar Panchayat is followed by the respondents in the matter and except the petitioners, there are no other persons came forward to object the same.

38. Hence, for the aforesaid reasons, we find no merit in the matter and accordingly the petition is **dismissed**.

(Pravin S. Patil, J.)

(Smt. M.S. Jawalkar, J.)