



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

WRIT PETITION NO. 5061 OF 2025

1 Rashtrapal Dadaraoji Patil,
Aged about 61 years,
Occupation : Agriculturist,
R/o. Village Kachari (Savanga), Tah. Katol,
District - Nagpur

2 Prakash S/o Ganpatrao Iwante,
Aged about 40 years,
Occupation : Agriculturist,
R/o Village Shiwa (Savanga),
Tah. & District – Nagpur.

... Petitioners

Versus

1 State of Maharashtra
Through its Principle Secretary,
Rural Development Department,
Mantralaya, Mumbai - 32

2 State Election Commission,
Maharashtra – Through its State Election
Commissioner, 1st floor, New Administrative
Building, Hutatma Rajguru Square, Madam
Cama Road, Mumbai - 32

3 Divisional Commissioner,
Nagpur Division, Nagpur.

4 The Collector, Nagpur

5 Zilla Parishad, Nagpur
Through its Chief Executive Officer,
Civil Lines, Nagpur.

... Respondents

WRIT PETITION NO. 5062 OF 2025

- 1 Sanjay s/o Parmeshwar Wadkar
Aged about 51 years, Occu: Agriculturist,
R/o. At & Post Vivekanand Nagar,
Tq. Mehkar, Distt. Buldhana
- 2 Santosh s/o Janardhan Chankhore
Aged about 55 years, Occu. Agriculturist,
R/o. At & Post Bori, Tq. Mehkar,
Distt. Buldhana
- 3 Dattatray S/o Ukandrao Shelke
Aged about 53 years, Occu. Agriculturist,
R/o. At & Post Mola, Tq. Mehkar,
Distt. Buldhana
- 4 Uttam S/o Pralhad Rathod
Aged about 48 years, Occu. Agriculturist,
R/o. At & Post Hivra (Khurd),
Tq. Mehkar, Distt. Buldhana
- 5 Vilas S/o Vinayak Kale
Aged about 42 years, Occu.: Agriculturist,
R/o. At & Post Pimpalgaon (Unda),
Tq. Mehkar, Distt. Buldhana
- 6 Pravin S/o Raghunath Jadhao,
Aged about 50 years, Occu.: Agriculturist,
R/o. At – Tarapur, Post – Khothali,
Tq. & Distt. Buldhana
- 7 Sahebrao S/o Haribhau Dongare
Aged about 52 years, Occu.: Agriculturist,
R/o. At & Post. Sarola (Pir),
Tq. Motala, Distt. Buldhana
- 8 Ganesh S/o Basandas Bassi
Aged about 48 years, Occu.: Agriculturist,
R/o. At- Jijamata Nagar, Buldhana,
Tq. & Distt. Buldhana
- 9 Suresh S/o Deosingh Ghoti
Aged about 43 years, Occu.: Agriculturist,
R/o. At-Taroda, Post-Kothali, Tq. Motala,
Distt. Buldhana.

... Petitioners

- 10 Tulsiram S/o Ghisaram Ghoti (Naik)
Aged about 51 years, Occu.: Agriculturist,
R/o. At & Post – Kurha, Tq. Motala,
Distt. Buldhana
- 11 Samadhan S/o Bhikaji Bansode
Aged about 42 years, Occu. Agriculturist,
R/o. At & Post Vivekanand Nagar,
Tq. Mehkar, Distt. Buldhana
- 12 Suresh S/o Rajaram Sarkate
Aged about 59 years, Occu.: Agriculturist,
R/o. At & Post Patwari Colony, Mehkar,
Tq. Mehkar, Distt. Buldhana
- 13 Narhari S/o Onkar Gawai
Aged about 62 years, Occu. Agriculturist,
R/o. At & Post Amadapur, Tq. Chikhali,
Distt. Buldhana

Versus

- 1 State of Maharashtra
Through Department of Rural Development, 7th
Floor, Construction Building, Marzban Path,
Fort, Mumbai
- 2 Maharashtra State Election Commission,
Through Secretary, First Floor, New
Administrative Building, Hutatma Rajguru
Square, Madam Cama Road, Mumbai
- 3 District Collector, Buldhana,
Collector Office Campus, State Bank Square,
Buldhana
- 4 Buldhana Zilla Parishad,
Through Chief Executive Officer,
Jaisthamb Chowk, Chaitanyawadi, Buldhana.

... Respondents

WRIT PETITION NO. 5285 OF 2025

- 1 Ishan Rajendra Sukhdeve,
Age 38 yrs, Occ. Agriculturist,
R/o. Narwati, Post-Shirpur,

Tah. Dharni, Dist. Amravati

- 2 Gopal Ramkisan Saryam,
Age 34 yrs, Occ. Agriculturist,
R/o. Ampend, Post-Ekdara,
Tah. Warud, Dist. Amravati
- 3 Rupesh Dharmuji Dhole,
Age 39 yrs, Occ. Agriculturist,
R/o. Ambada, Tah. Morshi,
Dist. Amravati
- 4 Sau Rupali Indrabhushan Sonde,
@ Ku. Rupali Sharadrao Badhiye,
Age 45 yrs, occ. Household,
R/o. Pusla, Tah. Warud,
Dist. Amravati

... Petitioners

Versus

- 1 The State of Maharashtra,
Through its Secretary, Rural Development
Department, Mantralaya, Mumbai 32
- 2 State Election Commission,
Maharashtra – through its State
Election Commissioner, 1st floor,
New Administrative Building,
Hutatma Rajguru Square,
Madam Cama Road, Mumbai - 32
- 3 Divisional Commissioner,
Amravati Division, Amravati,
Tah. and Dist. Amravati
- 4 The Collector, Amravati,
Tah and Dist. Amravati.

... Respondents

WRIT PETITION NO. 5301 OF 2025

- 1 Ramprasad Chhotelal Gathe,
Aged about 48 yrs, Occ. Business,
R/o Gangakhera, Post-Gangakhera,
District - Amravati

... Petitioner

Versus

- 1 The Collector, Amravati,
office at Civil Lines, Amravati
- 2 The Commissioner,
Amravati Division, Amravati
- 3 State Election Commission,
Maharashtra – through Chief Electoral
Officer, Maharashtra, office at General
Administration Department,
6th Floor Annex Building
Madam Cama Marg,
Hutatma Rajguru Chowk,
Mantralaya, Mumbai - 400 032
- 4 State of Maharashtra,
Rural Development Department,
through its Secretary, office at
Bandhkam Bhavan, 25,
Marzban Path, Fort,
Mumbai 400 001
- 5 Zilla Parisad,
Amravati through its Chief Executive
Officer, Zilla Parishad, Amravati,
office at Zilla Parisad Office,
Amravati, Dist. Amravati.

... Respondents

Mr. M.I. Dhattrak, Advocate for petitioners in Writ Petition No.5061/2025.

Mr. Amit M. Kukday, Advocate for respondent No.2 in Writ Petition Nos.5061/2025, 5062/2025, 5285/2025

Mr. S.P. Bodalkar, Advocate for respondent No.5 in Writ Petition No.5061/2025.

Mr. R.L. Khapre, Senior Counsel a/by Mr. V.A. Lohia, Advocate for petitioners in Writ Petition No.5062/2025.

Mr. Amit M. Kukday, Advocate for respondent No.2 in Writ Petition No.5062/2025.

Mr. M.V. Samarth, Senior Counsel a/by Mr. Piyush S. Kadam, Advocate for petitioners in Writ Petition No.5285/2025.

Mr. Alok H. Daga, Advocate for petitioner in Writ Petition No.5301/2025.

Mr. Birendra Saraf, Advocate General a/w Mr. D.V. Chauhan, G.P./Senior Advocate a/by Mr. H.D. Marathe, AGP for respondents/State in all Writ Petitions.

CORAM

**: ANIL S. KILOR, &
RAJNISH R. VYAS, JJ.**

RESERVED ON : 16.09.2025

PRONOUNCED ON: 19.09.2025

JUDGMENT : (PER : Rajnish R. Vyas, J)

Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally with consents of the learned counsel for the respective parties.

3. Heard Mr. Khapre and Mr. Samarth learned Senior Counsel along with Mr. Dhatrak and Mr. Daga, learned counsel for the petitioners in respective petitions and Mr. Birendra Saraf, learned Advocate General along with Mr. D.V. Chouhan, learned Government Pleader/Senior Counsel a/b Mr. Hrishikesh Marathe, learned Assistant Government Pleader for the respondent/State and Mr. Amit M. Kukday and Mr. S. P. Bodalkar learned counsel for respective respondents in all these writ petitions.

4. In all these writ petitions, the petitioners have prayed for striking down Rule XII of the Maharashtra Zilla Parishads and Panchayat Samitis (Manner and Rotation of Reservation of Seats) of Rules, 2025 being violative of Article 14 of the Constitution of India. Consequent prayers were also made. Rule No.XII which reads as under:-

“(XII) First Election for rotation:- For the purposes of rotation of seats under these Rules, the general election held after

commencement of these Rules shall be considered as the first election.”

5. It is their case that these Rules of 2025 are exactly similar to the Rules of 1996 which are called as Maharashtra Zilla Parishad and Panchayats Samitis (Manner and Rotation of Reservation of Seats) Rules 1996 and difference between the Rule of 1996 and Rule 2025 is introduction of new Rule i.e. Rule XII in the Rules of 2025. It is their case that by way of introduction of the said Rule the entire rotation system pertaining to policy of reservation has been disturbed and by doing so, the respondents have acted in arbitrary manner. If Rule XII of the Rules of 2025 is given effect, it will disturb the reservation by rotation which is in existence.

6. The Rule is further challenged on the ground that same being a delegated legislation, ought to have been within four corners of the parent legislation i.e. the Maharashtra Zilla Parishad and Panchayat Samitis Act of 1961. According to them, by introducing the said Rule XII in the Rules of 2025, most of the petitioners will not be in a position to contest election from reserved category. It is also their case that the right to contest the election is a constitutional right and disturbing/eliminating rotation would affect their constitutional right to contest the election.

7. Per contra, it is the case of the State Government through the learned Advocate General, Mr. Birendra Saraf, that in order to give true effect

to Section 12 of the Act of 1961, the State Government for the first time has decided to divide districts into electoral divisions by taking into consideration all the parameters and for giving effect to the policy of reservation.

8. According to the learned Advocate General by introducing Rule XII in the Rules of 2025 in-fact the mandate of Constitution, more particularly reservation policy, is duly hononured and now the boundaries of earlier constituencies would change and area of the constituencies would either be decreased or increased. He, therefore, contends that at this stage, it is too early to say that which constituency would fall under reserved category or the open category. He further says that due to delimitation now some areas in Villages may fall in municipal area or vice-versa and therefore, as on date, it is purely a guess work to decide regarding the reservation of particular constituency. Which seat would be reserved for particular constituency is still not known to the petitioners and therefore, he prayed for dismissal of petitions.

9. Learned Advocate General has further stated that the respondent was competent to frame the Rules and therefore, question of legislative competence does not arise.

10. In the aforesaid background, we have considered various provisions of the Constitution of India and Act of 1961, so also, Rule (XII)

which is challenged in this petition.

11. It is pertinent to mention here that Article 243-O creates a bar to interference by the Courts in the electoral matters and is worded as “notwithstanding anything in this Constitution - the validity of any law relating to de-limitation of constituencies or allotment of the seats to such constituencies made or purporting to made under Article 243K shall not be called in question in any court”. Needless to mention that power of judicial review is a basic feature of our Constitution and therefore, Court can always test any law with guarded approach. The constitutional right of a citizen to contest the election and powers of State to make the rules will have to be harmoniously looked into.

12. Section 12 of the Act of 1961 gives authority to ‘State Government’ with the approval of the State Election Commission for the purpose of election of Councillors to divide area into electoral divisions. It is pertinent to mention here that Section 12 of the Act of 1961 before amendment which came into effect from 11-03-2022 was as under:-

*“12-Division of Districts into electoral division:- (1) The **State Election Commission** shall for the purposes of election of councillors divide every district into electoral divisions....”*

After amendment in the year 2022, it worded as under:-

“12. Division of District into Electoral Divisions:- (1) The

State Government or an officer authorized by it, with the approval of the State Election Commission...”

13. In order to give effect to said provision and having powers to do so, the Rule of 2025, including Rule XII was enacted.

14. In this regard, it is necessary to mention here that the State Government for the first time has decided to change the areas of constituencies and therefore, the new constituencies would definitely get changed on the basis of geographical limits. Consequently, reservation of seat would also be changed. Therefore, as on today, it cannot be said that whether particular area would be reserved for particular category or not. The guesswork which the petitioners have done is not the ground to declare Rule (XII) as contrary to the Constitution or arbitrary on its face.

15. At this stage, it is further necessary to mention here that principle underlying roster point in Service Law cannot be made applicable to the roster/rotation by reservation in election cases. In Service Law, there would be fixed set of employees having fixed period of service whereas in roster/rotation in election field, there would always be changes in population and consequent reservation.

16. Article 243K of the Constitution of India would also be guiding factor for deciding controversy involved. The said Article speaks about elections to the Panchayat and says that superintendence, direction and control of population of electoral rule, and for the conduct of, all elections to the Panchayat shall be vested in State Election Commission. The Election Commission is created under the Constitution to supervise the election process and therefore, de-limitation carried out by the State Government under Section 12 of the Act of 1961, cannot be said to be arbitrary or contrary to the law. A help can also be taken from clause 4 of Article 243-K which says that subject to provisions of this Constitution, the legislature of a State may, by law, make provision with respect to all matters relating to or in connection with, elections to Panchayat. The source of power to frame the rule thus, originates from the said Article. The respondent/State thus cannot be blamed for introducing Rule XII of Rules of 2025 treating the election to be first election as due to division of areas into various electoral divisions, reservation of seats would change.

17. A reference can also be made to Section 9A of the Act of 1961 which says that the superintendence, direction and control of preparation of the electoral roll and conduct of, elections to the Zilla Parishads and Panchayat Samitis shall vest in the State Election Commission and the

Commission, may by order, delegate any of its power and functions to any officer.

18. The locus of a person challenging formation of ward is disputed unless such party establishes grave procedural defect. The party can always take recourse to the remedies and file an election petition.

19. The decision relied upon by the petitioners in the case of *Prashant Bansilal Bamb & Etc. Vs. State Of Maharashtra & Ors.* reported in *2007 (4) Mh.L.J. 341*, says that, “the State Election Commission considering constitutional provisions, law and the Rules 1996 shall take effective and meaningful steps in implementing the spirit of constitutional and legal provision of rotation policy while reserving the seats in the Panchayat Election in the State of Maharashtra.

20. The observation in the aforesaid judgments that policy of rotation be honoured cannot be disputed. The other judgment cited by counsel for the petitioners that rotation once started should be allowed to be completed were delivered in facts and circumstances of those cases can be distinguished on the ground that in the case in hand, the State Government by taking recourse to Section 12(1) has divided the limits of electoral division.

21. As already discussed, Rule 12 was introduced in order to give effect to the reservation policy and to give effect to Section 12 of the Act of

1961.

22. The judgment relied on by the petitioners in the case of ***Kishorchandra Chhaganlal Rathod Vs. Union of India and Others*** reported in ***2024 SCC OnLine SC 1879*** delivered by the Hon'ble Apex Court clearly states that, *"Court shall always be guided by the settled principle regarding scope, ambit and limitations on exercise of judicial review and delimitation matters, there is nothing that precludes them to check the validity of orders passed by the delimitation commission on the touch stone of Constitution. If the order is found to be manifestly, arbitrary and irreconcilable to the Constitutional values, the Court can grant appropriate remedy to rectify the situation."*

23. As already discussed, there is absolutely no material produced by the petitioner in support of their case. Thus case of petitioners is purely based upon hypothetical situation.

24. At this stage, it submitted that though delimitation is challenged on the ground of arbitrariness, nothing has been produced to prove the same except the argument that it would not complete the earlier rotation. The point to be noted is that the exercise which has been conducted by the State Government has not either abrogated the principle of rotation or deprived any reserved category. No one can claim any right as regard reservation of any

seat. Further, nothing is brought on record to show that there is any violation as regards the reservation of policy. We are conscious of the fact that the last census has been conducted but it can also not be ignored that since then there is change in percentage of population.

25. In the aforesaid background, we are of the view that, the petitioners have not made out any case and therefore, the petitions are liable to be **dismissed**.

[Rajnish R. Vyas, J.]

[Anil S. Kilar,J.]

Prity/Belkhede/Khapekar