

Date : 20-01-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE DINESH MAHESHWARI

For Petitioner(s) Mr. K. Parameshwar, Adv.
Mr. Swapnil B. Kakad, Adv.
Mr. Rahul Joshi, AOR

Mr. Chandra Prakash, AOR

For Respondent(s) Mr. Anand Dilip Landge, AOR

Mr. Rahul Chitnis, Adv.
Mr. Sachin Patil, AOR
Mr. Aaditya A. Pande, Adv.
Mr. Geo Joseph, Adv.
Ms. Shwetal Shepal, Adv.

Mr. A. Karthik, Adv.
Mr. Kailas Bajirao Autade, AOR
Ms. Sheetal Patil, Adv.
Mr. Mool Singh, Adv.
Mr. Saakethkasibhatla, Adv.
Mr. P. Prakash, Adv.

Mr. Ajit Kadethankar, Adv.
Ms. Bharti Tyagi, AOR

Ms. Jaikriti S. Jadeja, AOR

Mr. P. Wilson, Sr. Adv.
Mr. Arvind S. Avhad, AOR

Mr. Samrat Krishnarao Shinde, AOR

UPON hearing the counsel the Court made the following
O R D E R

SLP(C) No. 20160/2021

This special leave petition takes exception to the order dated 04.12.2021 passed by the High Court of Judicature at Bombay, Bench at Aurangabad in W.P. No. 12576 of 2021, whereby the High Court declined to

interfere in the writ petition which had challenged the election of respondent No. 7 as Chairperson of Panchayat Samiti, Shrirampur as reserved OBC category candidate, despite the decision of this Court in *Vikas Kishanrao Gawali vs. State of Maharashtra & Ors. reported in (2021) 6 SCC 73*.

The High Court took the view that the election to the post of Chairperson was necessitated due to disqualification of the incumbent Chairperson on 25.10.2021. The Samiti was constituted after the general elections held on 16.02.2017, which did not provide for restriction, which is now spelt out in the decision of this Court. On such understanding, the Collector proceeded and conducted elections by reserving the post for OBC category.

As the term of the Panchayat Samiti is only upto 23.02.2022, in the peculiar facts of the present case, we do not wish to precipitate the matter any further and accept the explanation offered by the Collector as a plausible error committed by him.

However, while disposing of this petition, we direct continuance of the interim order to the effect that the respondent No. 7, who has been elected as Chairperson of

the Panchayat Samiti, Shrirampur, shall not take any policy decision in connection with the Panchayat Samiti, until the general body elections of the said Samiti are conducted and the newly constituted Samiti takes over its affairs.

As aforesaid, although we are not approving the action of the Collector, we do not wish to issue direction to unseat respondent No. 7 owing to the short tenure left for conduct of general election for constitution of the Panchayat Samiti.

We direct the Maharashtra State Election Commission to ensure that the general elections to constitute the Panchayat Samiti, Shrirampur, are conducted in right earnest to ensure that the newly elected body takes over around the same time when the term of the incumbent Samiti expires (on 23.02.2022).

Needless to observe that the general elections will be conducted strictly as per the decision of this Court in *Vikas Kishanrao Gawali* (supra).

The special leave petition is disposed of accordingly.

Notice issued to the Collector vide order dated 13.12.2021, stands discharged.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)