

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

WRIT PETITION NO.4902 OF 2014

[Rajesh Subhashrao Kale .vs. The State Election Commission and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.S. Patil, counsel for the petitioner,
Shri J.B. Kasat, counsel for the respondent no.1,
Shri S.M. Ghodeswar, AGP for the respondent nos.2 and 3.

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CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATED : MARCH 31, 2015.

By this petition, the petitioner challenges the issuance of the final notification by the Collector under Rule 5 (1) of the Maharashtra Village Panchayats (Number of Members, Divisions into Wards and Reservation of Seats) Rules, 1966.

According to the petitioner, though the petitioner was the only objector to the preliminary notification dividing panchayats into wards and the number of voters and houses included therein, by the final notification issued under Rule 5 (1) of the Rules, the Collector illegally deleted certain houses from the ward and included certain other houses therein. It is stated that the Collector could not have done the exercise on his own, since the petitioner was the only objector. The final notification could have been issued only after either accepting or rejecting the objection of the petitioner.

We find, on hearing the learned counsel for the parties, that the averment made by the petitioner in the petition that the petitioner was the only objector to the issuance of the preliminary notification under Rule 5(1) of the Rules is incorrect. We find, on a perusal of the affidavit-in-reply filed on behalf of the Collector and the Tahsildar that there were other objectors, including objector Shri Sharad Bhanudas Tagde. It appears that the objection of Sharad Tagde

was upheld by the Tahsildar and the Collector has made necessary changes by issuing the final notification under Rule 5 (1) of the Rules. Since the case of the petitioner was mainly based on the assertion that the petitioner was the sole objector and since the said fact is disproved by the respondent nos.2 and 3 by the documents annexed to the affidavit-in-reply, the relief sought by the petitioner cannot be granted. Also, the election to the Gram Panchayat has been declared and it would not be possible to interfere with the election process at this stage.

In the result, the writ petition fails and is dismissed with no order as to costs.

JUDGE

JUDGE

Gulande