

(2025) 07 BOM CK 0239

In the Bombay High Court, Aurangabad Bench

Case No : Writ Petition No. 8260 Of 2022

Raman Ramsingh Pawar And Others

APPELLANT

Vs

State Of Maharashtra Through Its Principal Secretary And
Others

RESPONDENT

Date of Decision : 16-07-2025

Acts Referred:

Constitution of India, 1950 — Article 154, 226, 243B, 243(b), 243C, 243(d), 243(g)
Maharashtra Village Panchayats Act, 1959 — Section 3(24), 4

Citation : (2025) 07 BOM CK 0239

Hon'ble Judges : R. G. Avachat, J; Neeraj P. Dhote, J

Bench : Division Bench

Advocate : D. S. Bagul, P. K. Lakhotiya, N. N. Desale, Lalit S. Mahajan, A. V. Patil

Final Decision : Dismissed

Judgement

Neeraj P. Dhote, J

1. Heard finally at the stage of admission with consent of both the sides.
2. By this Writ Petition invoking jurisdiction under article 226 of the Constitution of India, the Petitioners, who are the residents of Village Burudkhe, Taluka Sakri, District Dhule, have raised the challenge to the Notification dated 17th June, 2022, issued by Respondent No.1 – State Government, constituting the two (2) Panchayats by name Panchmauli and Pinjarzadi.

3. The admitted factual aspects giving rise to the present Writ Petition are as follows :

(I) The Burudkhe Panchayat was constituted on 31st March, 1959, comprising the Revenue Villages - Burudkhe, Pinjarzadi, Sabarsonda, and Panchmauli, in Sakri Taluka of District Dhule. Subsequently, Village Burudkhe was included in Scheduled Area vide Notification dated 2nd December, 1985, issued by the Ministry of Law and Justice (Legislative Department), New Delhi, under the Scheduled Areas (Maharashtra) Order, 1985. In 2020, the residents of Village

Pinjarzadi submitted an Application to Respondent No.4 – Block Development Ofcer, Panchayat Samiti, Sakri to constitute a separate Panchayat for Village Pinjarzadi by excluding it from Burudkhe Panchayat. Pursuant to the said request, the subject was considered in a meeting of Gram Sabha of Burudkhe Panchayat dated 23rd February, 2020, and it was resolved that, Villages Pinjarzadi and Sabarsonda be excluded from Burudkhe Panchayat for constituting Pinjarzadi Panchayat. The resolution of the Gram Sabha was forwarded to the Respondent No.3 – Chief Executive Ofcer, Zilla Parishad, Dhule for necessary action. The Standing Committee of Dhule Zilla Parishad, in its meeting dated 1st November, 2021, approved the resolution of Panchayat Burudkhe for excluding Pinjarzadi from Burudkhe Panchayat and for constituting the separate Panchayat for Pinjarzadi. The Respondent No.3 – Chief Executive Ofcer, Zilla Parishad, Dhule forwarded the proposal to the Divisional Commissioner, Nashik Division, Nashik, on 1st December, 2021, who forwarded the same to Respondent No.1 – State Government. Considering the proposal, impugned Notifcation came to be issued, by which, Burudkhe Panchayat was bifurcated, and two (2) separate Panchayats, namely, Pinjarzadi and Panchmauli came to be constituted. Thereafter, the State Election Commission declared the Elections of various Gram Panchayats. The Elections to the said two (2) Village Panchayats were conducted.

4. It is submitted by the learned Advocate for the Petitioners that, the resolution of Gram Sabha was to exclude the Villages Pinjarzadi and Sabarsonda from Burudkhe Panchayat for constituting the separate Panchayat for Pinjarzadi. However, Respondent No.1 – State constituted two (2) Panchayats by name Pinjarzadi and Panchmauli, and included the Village Burudkhe in the Panchmauli Panchayat, which was contrary to the resolution. The existence of Burudkhe Panchayat, which was in existence since March 1959, was brought to an end. As Burudkhe was declared as the Scheduled Area, it is only with the assent of the President, it could be removed from the Scheduled Area. The Villagers of Village Burudkhe made a representation for making corrections in the Notifcation to restore its earlier identity. The impugned Notifcation be set aside and consequently, the Elections conducted after constitution of the above-referred two (2) Gram Panchayats also be set aside.

5. It is submitted by the learned Assistant Government Pleader that, the impugned Notifcation was issued in consonance with the provisions of law. The power to constitute a Panchayat vests with the State and the assent of the President is not required for constituting the Panchayat. Considering the population of Villages, the new Panchayat is constituted as Panchmauli, which includes the Village Burudkhe. The provisions of Section 4 of the Maharashtra Village Panchayats Act, 1959 (hereinafter referred to as 'the Act of 1959') are not inconsistent with the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996. There is no violation of any article of the Constitution of India. The challenge to the impugned Notifcation has no substance and the Petition be dismissed. In support of his submissions, he relied on the Judgment in the Gram Panchayat Kharghar and Anr. Vs. the State of Maharashtra and Ors.; 2016 SCC

Online Bom 9270.

6. Perused the papers on record.

7. Part – IX of the Constitution of India is in respect of the Panchayats. Article 243-(b) defines "Gram Sabha" - means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level. Article 243-(d) defines "Panchayat" - means an institution (by whatever name called) of self government constituted under Article 243B, for the rural areas. Article 243-(g) defines "Village" - means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified. The constitution of Panchayat is provided under article 243-B. Article 243-C is in respect of composition of Panchayats. It provides that, subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of Panchayats.

8. The Act of 1959 came to be enacted with a view to establishing village panchayats for every village or group of villages and investing them with such powers and authority as may be necessary to enable them to function as units of local self-government and of development activities in rural areas, and for certain other matters. As per Section 3-(24) of the Act of 1959, "Village" and "a group of villages" means the village or, as the case may be, a group of villages specified in the notification issued under clause (g) of article 243 of the Constitution of India.

8.1. Section 4 of the Act of 1959 provides as under :

"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.

9. The pleadings in the memo of Writ Petition, Affidavit-in-reply of Respondent No.1 – State and the papers on record show that, some of the residents of Village Pinjarzadi made representation to Respondent No.4 – Block Development Officer, Dhule that, the population of Village Pinjarzadi was over 2000 and it was at a distance of 2.50 kms. from the Burudkhe Panchayat, and the Villagers face difficulties as there was no facility of State Transport bus on that route and, therefore, they requested to separate the Pinjarzadi Village from the Burudkhe Panchayat and to constitute a separate Panchayat. A resolution was passed in the Gram Sabha of the Burudkhe Panchayat on 23rd February, 2020 bearing Resolution No.3, to separate the Pinjarzadi Village from Burudkhe Panchayat and to form a separate Panchayat for Pinjarzadi. There are copies of attendance for the Gram Sabha with the signatures of attendees. The Sarpanch and Gram Sevak of the Burudkhe Panchayat sent the said resolution of Gram Sabha to the Respondent No.4 – Block Development Officer, Dhule by a communication praying for separating Pinjarzadi Village from the Burudkhe Panchayat and constituting a separate Panchayat for Pinjarzadi and marked the copies of the same to the Respondent No.3 – Chief Executive Officer, Zilla Parishad, Dhule. The Respondent No.4 - Block Development Officer, Dhule forwarded the proposal in the prescribed format for separating Pinjarzadi Village from the Burudkhe Panchayat and for constituting a separate Panchayat for Pinjarzadi to the Respondent No.3 - Chief Executive Officer, Zilla Parishad, Dhule with the required details such as the population of Villages, which were the part of the Burudkhe Panchayat etc.

10. There was exchange of communication, showing that, the information was supplied by the Tahsil Office of Sakri to the Village Development Officer of Burudkhe Panchayat regarding the population of Villages Burudkhe, Pinjarzadi and Panchmauli. Likewise, the information in respect of distance between the Villages comprising the Burudkhe Panchayat was supplied by the Local Public Works Department to the Village Development Officer of Burudkhe Panchayat along with the copy of Map. In the Standing Committee meeting of Zilla Parishad, Dhule dated 1st November, 2021, the proposal for separating Pinjarzadi Village from Burudkhe Panchayat and constituting separate Panchayat was discussed and approved by majority. The Respondent No.3 – Chief Executive Officer, Zilla Parishad, Dhule forwarded the proposal to the Divisional Commissioner, Nashik and it was further forwarded to Respondent No.1 – State, and the impugned Notification, constituting two (2) separate Panchayats by name Panchmauli, comprising Villages Panchmauli and Burudkhe, and Pinjarzadi comprising Villages Pinjarzadi and Sabarsonda came to be issued by Respondent No.1 – State, in exercise of the powers conferred by Clause - (g) of Article 243 of the Constitution of India, Section 4 of the Act of 1959, and of all other power to enabling it in that behalf.

11. The above-referred undisputed aspects show that, the mandatory procedure as contemplated under the law was followed prior to issuing the impugned Notification. It is explicit from the above aspects that, the impugned Notification was the result of 'consultation' as contemplated under the provisions of Section 4

of the Act of 1959. The Full Bench of this Court in Sheshrao Bhaurao Jadhav Vs. Commissioner, Aurangabad Division, Aurangabad and Other ; 1982 Mh. L.J. 787, interpreted the term 'consultation' as provided under Section 4 of the Act of 1959, and observed in Paragraph No.6 that, the act does not set out any particular 'concept' or mode of such 'consultation'. Ordinarily and broadly it means communication of the views between the consulted (Panchayat concerned) and the consulter, the Commissioner, on the subject and further exchange of thoughts thereabout. The extent, nature and importance of any consultation must depend on the subject, object and the context thereof, under a given statute. The Group Village Panchayat gave indication of its views on the subject of such separation and break up of the Panchayat, by its resolution dated 2nd September, 1975. The same was communicated to the Commissioner. The resolution was unanimous. It was supported by the Standing Committee of the Zilla Parishad. The Commissioner accepted the same. He had presumably no reasons to object to warrant further exchange of views or discussion. The process of consultation came to an end with the acceptance of the Panchayat's resolution and the view by the Commissioner. Direct discussion is not an indispensable ingredient of any consultation, nor lengthy correspondence can be held to be 'must' when it is found to be unnecessary in a given case. The said interpretation is also considered with approval by this Court in Ganpatrao Bhosale and Others Vs. State of Maharashtra and Othes ; 1997 (3) Mh. L. J. 798.

12. Undisputedly, the proposal was to create a new Panchayat for Village Pinjarzadi. The bone of contention of the Petitioner is that, the resolution did not speak of abolishing the Burudkhe Panchayat and it was only to separate Pinjarzadi and constitute a separate Panchayt. The above-referred provisions of Section 4 of the Act of 1959 mandates that, 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. The above discussed documents available on record go to show that, as per the census, the population of the Villages was as follows ; (1) Pinjarzadi - 1509, (2) Sabarsonda - 650, (3) Burudkhe - 518 and (4) Panchmauli - 1219. This shows that, the population of Village Panchmauli was more than the population of Village Burudkhe and the population of Pinjarzadi was more than the population of Village Sabarsonda. Therefore, constituting the Panchayat by the names of Village having the largest population by Respondent No.1 - State by virtue of impugned Notifcation was in accordance with the mandate of law. Though the representation was made by the residents of Village Burudkhe to the authorities for change in the Notifcation by showing Burudkhe as the Panchayat, it is not a matter of choice as to by what name the Panchayat or the revenue Village should be constituted. It is the requirement of law to name the Panchayat on the basis of the largest population of the Village. Therefore, the contention that, impugned Notifcation is contrary to the resolution / proposal and therefore, should be set aside has no merits.

13. Another contention that, Burudkhe was included in the Scheduled Area by the Notifcation dated 2nd December, 1985 and as per the provisions of the

Panchayats (Extension to Scheduled Areas) Act, 1996, the Village can be removed from the Scheduled Area only after the assent of President, has no relevance for more than one reason. Firstly, by the said Notification dated 2nd December, 1985, it was the 'Village Burudkhe' in Sakri Tahsil of Dhule District along with several other Villages, across the State of Maharashtra which were included in the Scheduled Areas. Secondly, it is not that, the 'Burudkhe Panchayat' was included in the Scheduled Area as per the the said Notification. The impugned Notification has nothing to do with Scheduled Area. Thirdly, the said Notification dated 2nd December, 1985 and the impugned Notification constituting two (2) separates Panchayats operate in diferent sphere and issued under distinct powers by the Competent Authorities. There is nothing to show that, the impugned Notification abrogated the status of 'Village Burudkhe' as the Scheduled Area. Thus, the challenge to the impugned Notification on the ground that it affects the said Notification dated 2nd December, 1985, falls down.

14. The impugned Notification is issued in accordance with enabling power vested with Respondent No.1 – State under the law. The same is issued by Respondent No.1 – State in the name of Governor of Maharashtra. Article 154 of the Constitution of India is in respect of the executive power of State. It provides that, the executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through ofcers subordinate to him, in accordance with the constitution. In the above-referred Judgment relied by the learned Assistant Government Pleader, the Notification issued under the Act of 1959 and under the provisions of Maharashtra Municipal Corporations Act, 1949, and under the provisions of Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 and under the provisions of Maharashtra Zilla Parihad and Panchayat Samitis Act, 1961 were challenged and it is observed that, admittedly, the Notification of cessation of village, which have been included in the newly constituted Corporation has been issued in "the name of the Governor", though not by the Governor himself and, therefore, in our considered view, it fully complies with the statutory requirement. It would not be out of context to state that, in State of U. P. and Others Vs. Pradhan Sangh Kshettra Samiti and Others ; AIR 1995 SC 1512, it is observed that, the Governor does not exercise the executive functions individually or personally and the executive action taken in the name of Governor is the executive action of the State.

15. The challenge to the impugned Notification raised by the Petitioner fail on all counts. In the light of the above discussion, the only order which can be passed is that of dismissal of the Writ Petition, and no other. Hence, the following order :-

ORDER

. The Writ Petition is dismissed.