

ITEM NO.7+6+8

COURT NO.3

SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 141/2022

VIKAS KISHANRAO GAWALI

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA &amp; ORS.

Respondent(s)

IA No. 31332/2022 - INTERVENTION/IMPLEADMENT  
IA No. 30425/2022 - STAY APPLICATION)

WITH

Miscellaneous Application No. 323/2022 in SLP(C) No. 20160/2021  
FOR ADMISSION and IA No.18313/2022-EXEMPTION FROM FILING O.T. and  
IA No.18311/2022-CLARIFICATION/DIRECTION )

SLP(C) No(s). 19756/2021

IA No. 23878/2022 - APPROPRIATE ORDERS/DIRECTIONS)

W.P.(C) No. 1316/2021 (X)

IA No. 157427/2021 - EXEMPTION FROM FILING O.T.

IA No. 1261/2022 - INTERVENTION APPLICATION

IA No. 157430/2021 - STAY APPLICATION)

Date : 03-03-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR  
HON'BLE MR. JUSTICE DINESH MAHESHWARI  
HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Petitioner(s)

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Mr. Samrat Krishnarao Shinde, AOR

Mr. Randhir Kumar Ojha, AOR

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

As per the liberty given vide order dated 19.01.2022 by this Court, the Commission nominated by the State of Maharashtra has submitted interim report dated Nil (We are informed by the learned counsel for the State that it is submitted to the State of Maharashtra on 05.02.2022).

This report has been assailed in the writ petition as being perfunctory and non-compliant with the directions issued by this Court, including the governing decisions of the Constitution Bench of this Court in the case of '*K. Krishna Murthy (Dr.) & Ors. Vs. Union of India and Anr.*' reported in 2010 (7) SCC 202; and of three Judge Bench in the case of '*Vikas Kishanrao Gawali Vs. State of Maharashtra & Ors.*', reported in 2021 (6) SCC 73. *Prima facie*, we find force in this challenge. For, the report itself mentions that the same is being prepared in absence of empirical study and research by the Commission. Having failed to do so, the Commission ought not to have ventured to prepare the interim report as it being the quintessence of the principle expounded by this Court in the above-mentioned decisions.

As a result, it is not possible to permit any authority, muchless the State Election Commission, to act upon the recommendations made in the said report. For the time being, we do not intend to dilate on the correctness of each of the observations made in the interim report of the Commission.

We, however, direct all concerned not to act upon the interim report as submitted. Indeed, it will be open to the Commission to continue its exercise of conducting necessary study and collating contemporaneous empirical data, local body-wise and submit its report as and when it becomes ready after proper consideration and delineating the rationale behind such recommendations, which must stand the test of judicial scrutiny. In other words, even if it is an interim report, it cannot deviate from the parameters already indicated in the aforementioned decisions.

The next question is as to the direction to be issued in respect of local-self government, where the elections are overdue. It is stated that, at least, election in respect of 800 Gram

Panchayats, 5 Municipal Corporations and 200 Municipal Councils, are overdue. In other words, the statutory time frame for ensuring completion of election by the State Election Commission has already expired.

In respect of such local bodies, we direct the State Election Commission to comply with the direction given by this Court in order dated 15.12.2021 and restated on 19.01.2022, namely, that no reservation for Other Backward Class (OBC) be provided for in respect of such local bodies and the seats be notified as General seats.

Learned counsel for the State Election Commission submits that the State Election Commission has already commenced the process and would notify the Election Programme in respect of such local bodies with utmost dispatch as soon as the logistical arrangements are completed.

The State Election Commission shall ensure that until further directions of this Court, as and when elections become due for the concerned local body, the same be notified while ensuring that it is compliant with the direction in order dated 15.12.2021 and 19.01.2022 and further that there is

no delay in completion of the process before the statutory period of six months (after the expiry of the normal term of the concerned local body).

The time-frame given to the State Election Commission vide order dated 20.01.2022 to complete the election process would stand modified in light of the reasons stated in the application being M.A. No.323/2022 in Special Leave Petition (C) No.20160/2020.

(NEETU KHAJURIA)  
COURT MASTER

(VIDYA NEGI)  
COURT MASTER