

ITEM NO.14

COURT NO.9

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 33904-33910/2017

(Arising out of impugned final judgment and order dated 26-09-2017 in WP Nos.5656/2017, 5655/2017, 5642/2017, 5641/2017, 5640/2017, 5639/2017, 5602/2017 passed by the High Court Of Judicature At Bombay At Aurangabad)

RAVINDRA PARSHI PARADKE

Petitioner(s)

VERSUS

KALUSING & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.133550/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.133552/2017-EXEMPTION FROM FILING O.T.)

Date : 10-07-2019 These petitions were called on for hearing today.

CORAM :

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

For Petitioner(s) Mr. Sandeep Sudhakar Deshmukh, AOR

For Respondent(s) Mr. Nishant Ramakantrao Katneshwarkar, AOR
Mr. Anoop Kandari, Adv.

Mr. Ravindra Keshavrao Adsure, AOR

Mr. Amol B. Karande, AOR
Mr. Raj Saheb Patil, Adv.
Mr. Vijay S. Khamkar, Adv.

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

During the course of hearing it was brought to our notice that because of some orders passed by the High Court, elections could not be held in respect of Zilla Parishads and Panchayat Samitis in Akola, Washim, Dhule and Nandurbar Districts.

The term of the stated out-going Zilla

Parishads and Panchayat Samitis, we are informed had expired in December, 2018.

Learned counsel for the State has informed us that some Bill has been introduced in the Legislative Assembly for amendment of relevant provisions. We fail to understand as to how the pendency of that Bill can be a just ground for deferring the issuance of election programme by the State Election Commission, keeping in mind the constitutional mandate that the new committee of the concerned Zilla Parishads and Panchayat Samitis ought to be installed before the term of out-going committees expire. In any case, the elections cannot be postponed indefinitely.

Further, if the term of out-going committee has already expired as per the statutory and constitutional mandate, the State Government may need to take appropriate measures including to appoint administrator on the concerned committees, whose term has already expired long back including the permissible statutory extendable tenure.

Learned counsel for the State prays for time to take instructions both from the State Government as well as the State Election Commission so as to

make appropriate statement on the next date. That be stated on affidavit of the Secretary of the concerned Department of the State of Maharashtra.

As prayed, list these matters on 17th July, 2019.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

ITEM NO.50

COURT NO.9

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C)No(s). 33904-33910/2017

(Arising out of impugned final judgment and order dated 26-09-2017 in WP Nos. 5656/2017, 5655/2017, 5642/2017, 5641/2017, 5640/2017, 5639/2017, 5602/2017 passed by the High Court of Judicature At Bombay At Aurangabad)

RAVINDRA PARSHI PARADKE

Petitioner(s)

VERSUS

KALUSING & ORS.ETC. ETC.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.133550/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.133552/2017-EXEMPTION FROM FILING O.T.)

Date : 19-07-2019 These petitions were called on for hearing today.

CORAM :

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

For Petitioner(s) Mr. Sandeep Sudhakar Deshmukh, AOR
Mr. Vasim Siddiqui, Adv.

For Respondent(s) Mr. Sagar N.P. Patil, Adv.
Mr. Ravindra Keshavrao Adsure, AOR
Ms. Rohini Wagh, Adv.

Mr. Amol B. Karande, AOR
Mr. Vijay S. Khamkar, Adv.

Mr. Nishant Ramakantrao Katneshwarkar, AOR
Mr. Anoop Kandari, Adv.

Mr. Sudhanshu S. Choudhari, AOR
Ms. Surabhi Guleria, Adv.
Mr. Yogesh Kolte, Adv.
Mr. mahesh P. Shinde, Adv.

Mr. Mukesh Samarth, Adv.
Mr. Satyajit A. Desai, Adv.
Ms. Anagha S. Desai, AOR

State Election Commission Mr. Ajit Kadethankar, Adv.
 Mr. Braj K. Mishra, Adv.
 Mr. Vijay Kumar, Adv.
 Mr. Dhaval S. Deshpande, Adv.
 Ms. Bharti Tyagi, AOr

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

We are informed by the learned counsel for the State of Maharashtra that pursuant to observations made in our order dated 10th July, 2019, the Competent Authority has issued orders dated 18th July, 2019 in respect of Zilla Parishads and Panchayat Samitis in five Districts (Akola, Washim, Dhule, Nandurbar and Nagpur), appointing Administrator due to the expiry of tenure of the existing elected body as mandated by the Constitution and the relevant Statues. The said orders are taken on record.

We now expect the State Election Commission to move into action and immediately notify the election programme in respect of the stated Zilla Parishads and Panchayat Samitis, where the election is overdue. That cannot brook any further delay. That be done within one month from today. No order passed by the High Court

shall come in the way of the State Election Commission to comply with this time-line. The High Court shall not pass any interim directions against the State Election Commission in any proceedings which may create impediment of any kind whatsoever in complying with the time-line given herein; and if already passed, the same shall not be given effect to in view of this order passed today. The State Election Commission to submit compliance report within four weeks from today.

It will be open to the State to take the process regarding reservations in the concerned local bodies to its logical end before the election programme is issued by the State Election Commission. However, the State Election Commission is not obliged to wait till the State completes that process. Instead, the State Election Commission shall proceed on the basis of existing dispensation to issue the ensuing election programme and for conduct of election on that basis.

Thus, the State Election Commission must proceed in the matter in right earnest keeping in

mind the constitutional mandate coupled with the fact that there is no duly elected body in respect of as many as five Districts in the State - now being governed by the Administrator(s). It is, therefore, incumbent upon the State Election Commission to expedite the election process. We place on record a fair stand taken by the counsel appearing for the State Election Commission, that the State Election Commission is in a position to and shall notify the election programme immediately.

Counsel appearing for the intervenor(s) before this Court, however, submits that the issue regarding reservation has still not reached its final stage of implementation. Further, certain petitions are pending before the High Court in relation to that issue.

We reiterate that the fact that the process of revisiting reservations in the concerned local bodies is not complete shall not come in the way of the State Election Commission to notify the election programme, if it is already in a position to do so. That cannot brook any further delay as administrator(s) have been appointed

because the term of the elected body had expired long back.

List the matters on 22.08.2019.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

ITEM NO.1

COURT NO.8

SECTION IX

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

Petition(s) for Special Leave to Appeal (C) No(s). 33904-33910/2017

(Arising out of impugned final judgment and order dated 26-09-2017 in WP No. 5656/2017 26-09-2017 in WP No. 5655/2017 26-09-2017 in WP No. 5642/2017 26-09-2017 in WP No. 5641/2017 26-09-2017 in WP No. 5640/2017 26-09-2017 in WP No. 5639/2017 26-09-2017 in WP No. 5602/2017 passed by the High Court Of Judicature At Bombay At Aurangabad)

RAVINDRA PARSHI PARADKE

Petitioner(s)

VERSUS

KALUSING & ORS.

Respondent(s)

(IA No. 108915/2019 - APPROPRIATE ORDERS/DIRECTIONS)

WITH

W.P.(C) No. 980/2019 (X)

(FOR ADMISSION and IA No.113425/2019-EXEMPTION FROM)

W.P.(C) No. 981/2019 (X)

(FOR ADMISSION and IA No.113440/2019-EXEMPTION FROM FILING O.T.)

Date : 28-08-2019 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. Sandeep Sudhakar Deshmukh, AOR

Mr. Somanatha Padhan, AOR

Mr. Satyajit A. Desai, Adv.

Mr. Ashok Anand, Adv.

For Respondent(s)

Mr. Ravindra Keshavrao Adsure, AOR

Mr. Amol B. Karande, AOR

Mr. Rajsaheb Patil, Adv.

Mr. Pulkit Tyagi, Adv.

Mr. Tushar Mehta, SG

Mr. Nishant Ramakantrao Katneshwarkar, AOR
Mr. Sidharath Darmadhikari, Adv.
Mr. Anoop Kandari, Adv.

Mr. Ajit Kadethankar, Adv.(Election Commission)

Mr. Damini Hajela, AOR
Mr. Nicholas Chaudhary, Adv.

Mr. Sudhanshu S. Choudhari, AOR
Mr. Yogesh Kolte, Adv.
Mr. Mahesh P. Shinde, Adv.

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

As a consequence of order dated 19.07.2019, the State of Maharashtra has moved an application (IA No. 108955/2019) on 25.07.2019 for the following reliefs:-

"PRAYER

In the above facts and circumstances, the Respondents pray that your Lordships may be pleased to:
(a) Direct the State election Commission not to proceed with the elections of Zilla Parishads Nagpur, Akola, Washim, Nandurbar and Dhule till the end of next immediate session of Maharashtra State legislative Assembly.

OR IN THE ALTERNATE

Direct the State Election Commission not to proceed with the Elections of Zilla Parishads Nagpur, Akola, Washim, Nandurbar and Dhule for a period of four weeks so as to enable cabinet to deliberate on taking to logical end the process of reservation in concern local bodies as per order dated 19.07.2019, passed by this Hon'ble Court.

(b) Pass such other or further orders as may be deemed flat and proper."

In the context of the reliefs claimed by the State, we called upon the State Election Commission to clarify about the feasibility of securing information for providing reservation on the basis of

official census available as on date. Learned counsel for the State Election Commission submitted that Census is ordinarily done by the Government of India under the provisions of Census Act, 1948.

Learned counsel for the State, on instructions, had informed us that such census data is available but that information can be used only as individual level raw caste category in religion data; and further processing and mapping thereof will be necessary to decipher the population of Scheduled Castes(SC), Scheduled Tribes (ST), Backward Class of Citizens (BCC) and Women, which includes De-notified Tribes (Vimukta Jatis) Normadic Tribes, Other Backward Classes and Special Backward Classes, as the case may be.

Learned counsel for the State then took time to take instructions and place the relevant information on record supported by affidavit of Secretary, Rural Development Department, State of Maharashtra. Pursuant thereto, two affidavits dated 27.08.2019 and 28.08.2019 respectively, have been presented today in Court sworn by Shri Assemkumar S.K. Gupta, Principal Secretary, Rural Development Department, Mantralaya, Mumbai-32, Maharashtra. He is personally present in Court to assist the learned counsel for the State.

The Election Commission has, in principle, accepted the submission made by the State that the individual level raw caste categories in religion data needs to be processed and mapped so as to decipher the concerned category of caste, in relation to which reservation can be provided in the ensuing election.

The timeframe suggested by the State Government for such processing and mapping is not later than two months from today. That assurance is accepted.

We direct that the State Government shall make over the relevant information to the State Election Commission within two months from today. Additionally, the State Government, in consultation with the State Election Commission, shall initiate necessary procedure for providing reservation Constituency-wise, which exercise shall be completed not later than one month from completion of the mapping of individual level raw caste category in religion data.

Needles to observe that the State Government shall provide for Constituency-wise reservation in conformity with the mandate of Constitutional and Statutory provisions as applicable in that regard. Further, after the Constituency-wise reservation is notified by the State Government within the timeline specified hereinbefore, the State Election Commission shall notify the election programme not later than one week therefrom.

All concerned must ensure that the process of election of the Zilla Parishads and Panchayat Samitis of the concerned five districts is completed and taken to its logical end before the expiry of six months from the date of appointment of administrator(s) thereat, when their statutory tenure would come to an end.

We further direct that, in case, the State Government is not in a position to complete the necessary formalities and notify the reservation within the time-line specified hereinbefore, then the

Election Commission shall be obliged to notify the election programme forthwith qua the Zilla Parishads and Panchayat Samitis of the stated five districts, in light of the dictum of our order dated 19.07.2019, namely, on the basis of existing dispensation regarding reservation (as in July, 2019) without waiting for the notification regarding reservation by the State Government on the basis of the latest census.

It has come on record that the present Election Commissioner, Shri. J.S. Saharia will be demitting office on 04.09.2019. We have been assured by the State Government, through learned counsel appearing for the State that the State Cabinet Committee has already taken an in-principle decision to ensure that the vacancy be filled contemporaneously without any delay so that necessary steps required to be taken by the State Election Commission in relation to the subject matter before this Court can be proceeded without any exception as per law.

Learned counsel for the State has also informed us that, if after 04.09.2019, for some reason the new incumbent cannot take over the office of State Election Commissioner, a working arrangement would be evolved by designating an officer of the State Election Commission to act as incharge State Election Commissioner. We accept the aforementioned assurances.

We reiterate that neither the High Court nor any subordinate court in the State of Maharashtra shall entertain any challenge to the proposed reservation or the ordinance promulgated by the State on 31.07.2019 or any matter relating to issuance of election programme concerning the Zilla Parishads and Panchayat Samitis of

the concerned five districts. For, we have decided to examine the whole matter in that regard in this proceeding before us to do complete justice.

List these matters on 31st October, 2019 for reporting compliance and necessary directions, if any. Liberty to apply for an early date is reserved to the parties before us.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
COURT MASTER (NSH)

ITEM NO.2

COURT NO.8

SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).33904-33910/2017

(Arising out of impugned final judgment and order dated 26-09-2017 in WP No. 5656/2017 26-09-2017 in WP No. 5655/2017 26-09-2017 in WP No. 5642/2017 26-09-2017 in WP No. 5641/2017 26-09-2017 in WP No. 5640/2017 26-09-2017 in WP No. 5639/2017 26-09-2017 in WP No. 5602/2017 passed by the High Court Of Judicature At Bombay At Aurangabad)

RAVINDRA PARSHI PARADKE**Petitioner(s)****VERSUS****KALUSING & ORS.****Respondent(s)**

IA No. 108915/2019 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 133550/2017 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 133552/2017 - EXEMPTION FROM FILING O.T.
IA No. 112522/2019 - EXEMPTION FROM FILING O.T.
IA No. 112505/2019 - INTERVENTION APPLICATION
IA No. 104572/2019 - INTERVENTION APPLICATION)

WITH

W.P.(C) No. 980/2019 (X)
(FOR ADMISSION and IA No.113425/2019-EXEMPTION FROM)

W.P.(C) No. 981/2019 (X)
(FOR ADMISSION and IA No.113440/2019-EXEMPTION FROM FILING O.T.)

Date : 07-11-2019 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. Sandeep Sudhakar Deshmukh, AOR

Mr. Sunil Murarka, Adv.
Mr. Satyajit A. Desai, Adv.
Mr. Shobhit Dwivedi, Adv.
Mr. Somanatha Padhan, AOR

Respondent(s)
State of Mah.

Mr. Nishant Ramakantrao Katneshwarkar, AOR
Mr. Anoop Kandari, Adv.
Mr. Sidharth Dharmadikari, Adv.

Mr. Ravindra Keshavrao Adsure, AOR

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State Election
Commission, Mah.

Mr. Ajit Kadethankar, Adv.

Mr. Amol B. Karande, AOR
Mr. Vijay S. Khamkar, Adv.
Mr. Pulkit Tyagi, Adv.

Mr. Aditya P. Khanna, Adv.
Mr. Brij Kishor Sah, Adv.
Ms. Qurratulain, Adv.
Ms. Damini Hajela, AOR

Mr. Sudhanshu S. Choudhari, AOR

Mr. Umesh Kumar Khaitan, AOR
Mr. Arsalan Syed, Adv.
Mr. Jatin Julka, Adv.
Mr. Prateek Khaitan, Adv.

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

Counsel for the State of Maharashtra was at pains to persuade us to keep the self operating directions issued on 28th August, 2019 to the State Election Commission in abeyance.

Without any formal application in that behalf we cannot countenance this request. As and when the State of Maharashtra files a formal application, the same can be considered on its own merits.

As of today, the State Election Commission is obliged to proceed with the election process in terms of the self operating order dated 28th August, 2019.

The State Election Commission is free to file affidavit of compliance in the Registry of this Court in the course of the day.

The State is also granted liberty to file additional affidavit, if so advised.

Needless to observe, the spirit of the self operating order issued to the State Election Commission must be followed by the Commission in respect of all the Districts in the State where ever the elections are due.

List the matters on 20th November, 2019.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

ITEM NO.35

COURT NO.7

**REPORTABLE
SECTION IX****S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS**

Petition(s) for Special Leave to Appeal (C) No(s).33904-33910/2017

(Arising out of impugned final judgment and order dated 26-09-2017 in WP No. 5656/2017 26-09-2017 in WP No. 5655/2017 26-09-2017 in WP No. 5642/2017 26-09-2017 in WP No. 5641/2017 26-09-2017 in WP No. 5640/2017 26-09-2017 in WP No. 5639/2017 26-09-2017 in WP No. 5602/2017 passed by the High Court Of Judicature At Bombay At Aurangabad)

RAVINDRA PARSHI PARADKE

Petitioner(s)

VERSUS

KALUSING & ORS.

Respondent(s)

IA No. 108915/2019 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 133550/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
 IA No. 133552/2019 - EXEMPTION FROM FILING O.T.
 IA No. 112522/2019 - EXEMPTION FROM FILING O.T.
 IA No. 112505/2019 - INTERVENTION APPLICATION
 IA No. 104572/2019 - INTERVENTION APPLICATION)

WITH

W.P.(C) No. 980/2019 (X)
 IA No. 113425/2019 - EXEMPTION FROM FILING O.T.)

W.P.(C) No. 981/2019 (X)
 IA No. 113440/2019 - EXEMPTION FROM FILING O.T.)

W.P.(C) No. 1408/2019 (X)

W.P.(C) No. 1445/2019 (X)
 (FOR ADMISSION and IA No.189935/2019-EXEMPTION FROM FILING O.T.)

Date : 18-12-2019 These matters were called on for hearing today.

CORAM :

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

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For Petitioner(s)
 33904-33910/2017

Mr. Sandeep Sudhakar Deshmukh, AOR

WP(C)No. 980/2019

Mr. D.N. Goburdhan, Adv.

| | |
|--|---|
| | Mr. Mukesh Samarth, Adv. Mr. Somanatha Padhan, AOR Mr. Ashok Anand, Adv. |
| WP(C)No. 981/2019 | Mr. Mukesh Samarth, Adv. Mr. D.N. Goburdhan, Adv. Mr. Somanatha Padhan, AOR Mr. Ashok Anand, Adv. Mr. Rakesh Kr. Singh, Adv. |
| WP(C) No. 1408/2019 | Mr. Amol B. Karande, AOR Mr. Vijay S. Khamkar, Adv. Mr. Pulkit Tyagi, Adv. |
| WP(C) No.1445/2019 | Mr. Pallav Shisodia, Sr. Adv. Mr. Abhay S. Undal, Adv. Mr. Anshuman Singh, Adv. Ms. Surbhi Lata, Adv. |
| For Respondent(s) State of Maharashtra | Mr. Shekhar Naphade, Sr. Adv. Mr. Rahul Chitnis, Adv. Mr. Aniruddha Joshi, Adv. Mr. Nishant Ramakantrao Katneshwarkar, AOR Mr. Ravindra Keshavrao Adsure, AOR Mr. Amol B. Karande, AOR Mr. Vijay S. Khamkar, Adv. Mr. Pulkit Tyagi, Adv. |
| State Election Commission | Mr. Ajit Kadethankar, Adv. Ms. Qurratulain, Adv. Mr. Brij Kishor Sah, Adv. Mr. Nicholas Choudhary, Adv. Ms. Damini Hajela, AOR Mr. Sudhanshu S. Choudhari, AOR Mr. Mahesh P. Shinde, Adv. |

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

SLP(C) Nos. 33904-33910/2017, W.P.(C) Nos. 980/2019, 981/2019 and 1408/2019

I.A. No. 188324/2019 in SLP(C) Nos. 33904-33910/2017 seeking impleadment of the Registrar

General of India, Ministry of Home Affairs is allowed.

We have heard counsel for the parties at length.

The issue brought before this Court by way of independent writ petitions is to question the reservations propounded by the State Election Commission for the ensuing elections on the basis of earlier dispensation. That has been done by the State Election Commission in terms of orders passed by this Court from time to time (dated 10.7.2019, 19.7.2019, 28.8.2019 and 7.11.2019, in particular) in the leading petition being Special Leave Petition (C) Nos.33904-33910 of 2017.

In the course of hearing of the said petitions, it was noticed that at least in respect of five districts, Nagpur, Washim, Akola, Dhule and Nandurbar, election was not held to install the Zilla Parishads and Panchayat Samitis although the term of the out-going committee had expired long back and in some cases, even more than two years. Resultantly, this Court called upon the State to appoint Administrator(s) for the concerned committees and also the State Election Commission

to initiate the election process to install new committees before expiry of the upper limit for continuing Administrator(s).

The State Government, in the meantime, came out with Ordinance dated 31.07.2019 being Maharashtra Ordinance No.XV of 2019 amending Section 12(2)(c) of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, whereby a proviso has been inserted in the said Section, which reads thus: -

“provided further that, after providing reservation as per the provisions of this clause, if the reservation exceeds 50 per cent. Then, the seats to be reserved for the persons belonging to the Backward Class of Citizens in a Zilla Parishad shall bear, as nearly as may be, in the same proportion to be total number of seats to be filled in by direct election in that Zilla Parishad as the population of the Backward Class of Citizen in that Zilla Parishad area bears to the total population of that area.”

In due course, it was, however, realized that it may not be possible to enforce the amended provision considering the fact that the last census was published in the year 2011 which does not mention the break-up of Backward Class of Citizens but only provides for the break-up of Scheduled Castes and Scheduled Tribes category. As a result,

despite the stated proviso, the reservation for the category of Backward Class of Citizens cannot be translated into reserved seats for the ensuing election of the concerned districts. Resultantly, this Court, on 28.08.2019, directed the State Election Commission to proceed on the basis of old dispensation in terms of the earlier order of this Court. That direction became inevitable as the State Government expressed its inability to provide category-wise break-up of population, in particular, regarding Backward Class category. According to the State, that information could be provided only by the Central Government, which was not forthcoming. Indisputably, the last census, which alone can be reckoned for determining the extent of reservation, is of 2011 and it does not contain the population information of Backward Class category. Moreover, it is now fairly conceded by the State that reservation will have to be provided by the State Election Commission, which can be done as and when a new census is published containing the break-up of Backward Class category for the future elections. Concededly, there is no time frame for publication of new census and the

Central Government cannot hasten that process.

Be that as it may, as per the direction issued by this Court, the State Election Commission has already notified the Election Programme for the concerned five districts, namely, Nagpur, Washim, Akola, Dhule and Nandurbar. The Election Programme has commenced from today i.e. 18th December, 2019.

After hearing counsel for the parties, we are of the considered opinion that the issues raised may require deeper examination.

Indeed, the Writ petitioners have invited our attention to the dictum of the Constitution Bench of this Court in '*K. Krishna Murthy (Dr.) and Others vs. Union of India and Another*', reported in (2010) 7 SCC 202, particularly paragraph 82(iv) thereof. However, counsel for the State contends that on reading paragraphs 59 and 64 of the same decision, there is some doubt as to whether 50% vertical reservations referred to in paragraph 82(iv) can be regarded as inviolable. In support of his argument, he has placed reliance on the break-up of the figures provided in the Election Programme in respect of five districts as under:

| Zilla Parishad | Total | General | SC | ST | OBC/BCC | Excess |
|----------------|-------|---------|----|----|---------|----------|
| Nagpur | 58 | 25 | 10 | 7 | 16 | 3 / 7% |
| Washim | 52 | 23 | 11 | 4 | 14 | 3 / 6% |
| Akola | 53 | 22 | 12 | 5 | 14 | 4 / 8% |
| Dhule | 56 | 15 | 3 | 23 | 15 | 13 / 23% |
| Nandurbar | 56 | 0 | 1 | 44 | 11 | 0 / 100% |

According to Shri Shekhar Naphade, learned senior counsel appearing for the State, if the direction given in paragraph 82(iv) of the reported decision is to be strictly complied, it may not be possible to give effect thereto at least in respect of two districts which have high tribal population such as Dhule and Nandurbar. Inasmuch as, in the case of Nandurbar, 44 out of 56 seats are allotted or reserved for the Scheduled Tribes category commensurate with the population ratio. That itself would consume 50% upper limit provided by the Constitution Bench leaving no reservation even for the Scheduled Castes category.

Similar position obtains in respect of Dhule District, where around 50% seats are earmarked for the Scheduled Tribes category.

Shri D.N. Goburdhan, learned counsel for the writ petitioner(s), has invited our attention to

the decision of Three Judge Bench passed in the case of *Dravida Munnetra Kashagam (DMK) vs. Secretary Governors Secretariat and Others*, dated 06.12.2019.

However, *prima facie*, we find force in the submission of the learned senior counsel for the State that the said decision is on the facts of that case. That can be discerned from paragraph 13 of the decision. In that case, 31 revenue districts were bifurcated into 39 districts and the election programme was notified without undertaking fresh delimitation and reservation was for the categories of Scheduled Castes and Scheduled Tribes only.

As aforesaid, these are matters which may require further consideration. For the time being, we deem it appropriate to issue notice to respondents in writ petitions.

However, we decline to stay the election process as of now, but make it clear that election programme may proceed as already notified by the State Election Commission and the election to the seats concerning Backward Class category in the concerned districts shall be subject to the outcome of these petitions. Ordered accordingly.

The respondents to file reply affidavit(s) within four weeks. Thereafter, two weeks' time is granted to file rejoinder affidavit(s).

List the matters on 12th February, 2020 (Non-miscellaneous day).

I.A. Nos. 104572/2019 and 112505/2019 in SLP(C) Nos. 33904-33910/2017 for intervention be also listed alongwith these matters on the next date fixed.

W.P.(C) No. 1445/2019

Heard Shri Pallav Shisodia, learned senior counsel appearing for the petitioner and Shri Ajit Kadethankar, learned counsel for the State Election Commission.

The view taken by the State Election Commission as noted in order dated 14.12.2019 on the construction of Rule 6 of the Maharashtra Zilla Parishads and Panchayat Samitis (Manner and Rotation of Reservation of Seats) Rules, 1996, in our opinion, seems to be just and proper. Hence, we decline to entertain this writ petition filed under Article 32 of the Constitution.

The writ petition and pending application(s)
are accordingly dismissed.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER