

## STATE ELECTION COMMISSION, MAHARASHTRA

No. SEC/1095/91/94-95  
New Administrative Building,  
Opp. Mantralaya, Madam Cama Road,  
Mumbai 400 032.  
Dated the 16th January 1995.

To,

The Commissioner,  
All Revenue Divisions.  
All the Collectors.

### Subject : General Elections to Village Panchayats.

Reference are received by the State Election Commission from some of the Collectorates in the State seeking guidance on the following points, namely :—

(i) In some villages where there is population of Scheduled Tribes only, they find it difficult to provide for reservation of seats for persons belonging to category of Backward Class of citizens. Therefore, point is raised as to whether seats should be reserved for the category of persons belonging to Backward Class of citizens, and whether such reserved seats should be filled by persons belonging to Scheduled Tribes or they should be kept vacant.

(ii) In the villages where the entire population is of Scheduled Tribes reservation provided for Backward Class of citizens at 27 per cent of the total number of seats, results into increase in the number of seats than what is allowed under the rules, as in the following examples given by one of the Collectors—

Total Population of Village	Population of Reservation for					Total
	SC	ST	SC	ST	BC 27%	
(1)	(2)		(3)			(4)
980	—	776	—	6	2	8
1385	—	1281	—	6	2	8

Since the population of the village as shown above is less than 1500, the total number of seats permissible is 7, but according to the Collector, due to reservation in respect of persons belonging to category of Backward Class of citizens as shown above, the number of seats has increased to 8.

(iii) In case of certain group Gram Panchayats, proposals are pending for divisions thereof into separate villages. However, the Ward formation of such Group Village Panchayats has been prepared on the basis of one village, disregarding the proposal to divide the same.

2. (a) with regard to the points raised (i) and (ii) above, attention is invited to Article 243-M in Part IX of the Constitution of India which provides *inter alia* that nothing in Part IX shall apply to the Scheduled Areas referred to in clause (1) and the Tribal Areas referred to in clause (2) of Article 244. It might be possible that where the total population of a village consist of Scheduled Tribes, that village must have been included in the Scheduled Areas within the State of Maharashtra ; and where it is so included, provisions Part IX including reservation for persons belonging to the category of Backward Class of citizens shall not apply to the area of that village. The Collectors will have to verify whether such particular village does or does not fall within the Scheduled Area as declared in relation to the State of Maharashtra.

(b) Where the village does not fall in the Scheduled Area and although the majority population of such a village consists, as in the above example, of Scheduled Tribes, nevertheless, reservation for persons belonging to category of Backward Class of citizens will have to be provided for, but in that case, out of the total 7 seats permissible under the rules, 5 seats shall be for the Scheduled Tribes and 2 seats shall be for persons belonging to the category of Backward Class of citizens, and not 8 seats (6 for Scheduled Tribes and 2 for Backward Class of citizens) according to the example given above.

3. (a) With regard to the raised at (iii) above, it may be pointed out that under clause (g) of Article 243 of the Constitution, the expression "village" has been defined as under :—

(g) "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."

Corresponding provision defining village is made in section 2(24) of the Bombay Village Panchayats Act, 1958 as amended by Maharashtra Act XXI of 1994. In view of this provision, the power of the State Government under section 4 to declare a local area to be a village is taken away. Section 4 of the Bombay Village Panchayats Act, 1958 has been suitably so amended so as to accord with the relevant provisions of Part IX of the Constitution. Consequently, the powers of the State Government under section 4 which were delegated to the Divisional Commissioners would cease to have any effect and the Commissioners shall have no jurisdiction to divide any group of villages comprising a Village Panchayat into different villages.

(b) In the circumstances, the proposals to divide the group of villages into different villages which are pending with the Commissioners will no longer survive and the division of the group Village Panchayat into wards on the basis of the group of villages (a group Village Panchayat), being a village would be in order.

D. N. CHOUDHARI,  
State Election Commissioner,  
Maharashtra.

Copy forwarded for—

Information to the Secretary to  
Government, Rural Development and Water  
Conservation Department, Mantralaya, Bombay 400 032.