

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

WRIT PETITION NO.652 OF 2014

Anil Tukaram Gavhande

-vs-

The State of Mah. Thr. its Secretary, Department of Rural Development, Mumbai & Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

**CORAM : B.P.DHARMADHIKARI &
A.S.CHANDURKAR, JJ.**

DATE : 27.01.2015.

Heard Shri A. S. Kilor, Advocate for petitioner, Learned AGP for respondent Nos.1 and 2, Shri Abhay K. Sukhdeve, Advocate holding for Shri S.M. Ukey, Advocate for respondent Nos.4 and 5 and Ms Vinita Tiwari Advocate holding for Shri S.V. Bhutada, Advocate for respondent No.6.

Counsel appearing for respondent Nos.4 and 5 has sought adjournment after the arguments of learned counsel for petitioner were over. However, we are not inclined to adjourn the matter.

Submission of Advocate Shri Kilor is that after receipt of inquiry report, the respondents ought to have evaluated it properly and then decide its further course of action. There is no such application of mind and mechanically by placing the Secretary of Grampanchayat under suspension, entire issue has been closed. He further submitted that there is grave and serious illegality and irregularity noted in inquiry report and the respondent No.2

as also respondent No.4 have chosen to ignore it.

Learned AGP is relying upon reply affidavit.

Reply affidavit is totally silent on prayer (1) in the writ petition. By that prayer, petitioner has sought dissolution of elected body of Gram Panchayat under Section 145 of the Bombay Village Panchayat Act. It is open to respondents to arrive at proper conclusion after considering such report. If they find that report only implicates Secretary, they can take action against Secretary. If according to them, report apart from Secretary also implicates the Sarpanch of Grampanchayat or other elected ward members thereof, they can take necessary action against such Sarpanch or other members. In that event, they can also decide whether recourse to Section 145 is required or not. Such application of mind is conspicuously lacking in present matter. Order dated 09/01/2014 shows that respondent No.2 has closed the issue only by placing Secretary of Grampanchayat under suspension. We find this approach unsustainable. We therefore direct respondent No. 2 to consider the inquiry report in its entirety and thereafter decide need of taking action against elected members including Sarpanch and Upsarpanch along with such Secretary. This exercise be completed within a period of eight weeks from today.

Leaving all contentions open and with directions to respondent No.2 as above, we dispose of the petition with no order as to costs.

JUDGE

JUDGE