

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2146 OF 2017

Laxmi Dhanaji Naik and another

..Petitioners

Versus

Yogesh Kashinath Patil and others

..Respondents

Mr. S. S. Patwardhan i/by Mrs. Mugdha J. Patil for the Petitioners.

Mr. C. G. Gavnekar a/w Mr. P. P. Raul for the Respondent No.1.

Mr. S. H. Kankal, AGP for the Responden Nos.2 & 4.

CORAM : R. M. SAVANT, J.

DATE : 17th FEBRUARY, 2017

PC.

1 The cause for moving the above Petition is account of the fact that the Appellate Authority i.e. Hon'ble Minister for Rural Development, Government of Maharashtra is not available for taking up the Appeal filed by the Petitioners against their removal under Section 39(1) of the Maharashtra Village Panchayats Act, 1958 (For short "the Said Act"). According to the instructions of the Learned Counsel appearing of the Petitioners Mr. S. S. Patwardhan, the Appellate Authority is likely to become available after 23.02.2017 on account of the ongoing Zilla Parishad elections. The Petition is moved on an urgent basis in view of the fact that after the removal of the Petitioners, the elections to the post of Sarpanch and Upa Sarpanch are slated for tomorrow i.e. on 18.02.2017. In view of the said fact that it is not possible to stay the

elections to the said posts of Sarpanch and Upa Sarpanch, however, it is made clear that the said elections would be subject to the Appeal that is filed by the Petitioners before the Appellate Authority. The Authorities to accordingly inform the Returning Officer who is appointed for the purposes of the elections would accordingly make a declaration to the said effect whilst declaring the results of the election. It is further made clear that contingent upon the decision in the Appeal the persons elected to the posts of Sarpanch and Upa Sarpanch would have no right to continue and cannot claim equities on any ground. The Appellate Authority is directed to hear and decide the Appeal as mandated by Section 39(3) of the Said Act within the time stipulated by the said provision. Needless to state that the contentions of the parties are kept open to be urged before the Appellate Authority. With the aforesaid directions the Writ Petition is disposed of.

[R.M.SAVANT, J]