

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

910 WRIT PETITION NO.4923 OF 2019
WITH
CA/5939/2019
WITH
CA/5938/2019
IN
WP/4923/2019

VATSALA PANDURANG HAKE
VERSUS
THE STATE OF MAHARASHTRA AND ORS.

Mr. Y.V.Kakade, Advocate for Petitioner.

Mr. S.D.Ghayal, A.G.P. for State.

Mr. N.S.Jaju, Advocate for caveator.

CORAM : V.L.ACHLIYA, J.

DATE : 03/05/2019

ORAL ORDER :

1. Heard.
2. Issue notice to the respondents. Learned A.G.P. waives service of notice for respondent Nos. 1 to 3.
3. Learned counsel for petitioner submits that the order impugned by way of this petition is already challenged by filing appeal u/s 39 (3) of the Maharashtra Village Panchayat Act before respondent No. 2. Due to the parliament elections, respondent No. 2 was not available to hear the appeal as well as to decide the application for stay.

4. Since the parliament elections are already taken place in the State of Maharashtra, the reason shown to file the present petition no more survives.

5. The petitioner has already availed the remedy u/s 39 (3) of the Maharashtra Village Panchayat Act and filed Appeal before the State Govt. as against the order passed by the Divisional Commissioner. The petition can be conveniently disposed of by directing respondent No. 2 to decide the appeal in time bound manner.

6. Accordingly, the petition is disposed of with direction to the petitioner to appear before respondent No. 2 on 14/05/2019. On appearance of the petitioner, respondent No. 2 is directed to list the appeal for hearing and decide the same as expeditiously as possible and preferably within eight weeks from the date of appearance of the petitioner.

7. It is expressly made clear that this Court has not examined the merit of the case and all contentions raised by the petitioner are kept open to be raised before respondent No 2. So also, the vacancy occurred on account of disqualification of the petitioner shall be subject to out-come of the decision in appeal. In case the appeal is allowed, the petitioner deserves to be restored to the position prior to declaring him as disqualified.

8. The Writ Petition disposed of in above terms.
9. In view of disposal of Writ Petition, all pending Civil Applications stand disposed of.
10. All concern to act upon the authenticated copy of this order.

[V.L.ACHLIYA]
JUDGE

KNP.