

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8056 OF 2019

Usha Sambhaji Narke

Petitioner

Versis

The State of Maharashtra & others

Respondents

Mr.S.S.Thombre, Advocate for the petitioner.

Mr.S.R.Yadav, AGP for respondents no.1, 2, 9 & 13.

Mr.C.V.Bodkhe, advocate for Respondent No.12.

CORAM : Ravindra V.Ghuge, J.

DATE : 02/07/2019

PER COURT :

1 The petitioner is aggrieved by the Hon'ble Minister having not granted any relief to the petitioner during the pendency of the appeal.

2 The petitioner has already suffered an order of disqualification dated 19.03.2019, by which the Additional Divisional Commissioner, Aurangabad Division, Aurangabad, allowed the Complaint and concluded that the petitioner has incurred disqualification under Section 39(1) of the Maharashtra Village Panchayats Act, 1958.

3 The appeal filed by the petitioner is pending before the
Hon'ble Minister.

4 It is informed that a special meeting has been convened
on 4th July, 2019, for electing a new Sarpanch in place of the
petitioner.

5 I have considered the strenuous submissions of the
learned advocate for the petitioner, learned AGP on behalf of
respondents no. 1, 2, 9 and 13 and, Mr. Bodkhe, learned advocate on
behalf of respondent no. 12. Learned advocate for the caveator is not
present.

6 The petitioner has incurred disqualification on the
ground of having issued a cheque for an amount of Rs.35,000/- to
her husband, along with some other irregularities.

7 The petitioner vehemently denies all these allegations
and submits that the elections are unfounded. He relies upon the
judgment of this Court in the matter of **Suresh s/o Bhausaheb Alhat**

Vs. State of Maharashtra and others (Writ Petition No. 11264/2016, decided on 20.01.2017) and contends that this Court had remitted the matter back to the Divisional Commissioner for a proper enquiry into the allegations levelled against the *Sarpanch* by concluding that the Chief Executive Officer must make an enquiry under Section 39. He submits that no such enquiry was conducted by the Chief Executive Officer.

8 Since the appeal is pending before the Hon'ble Minister, it would amount to prejudging the matter by dealing with the contentious issues between the parties. The appeal, therefore, deserves to be decided expeditiously on its own merits.

9 Learned counsel for the petitioner strenuously submits that she be protected as a *Sarpanch* or atleast the result of the election scheduled on 4th July, 2019, may not be declared.

10 I find that as the appeal is pending, it would be inappropriate to interfere in the elections scheduled on 4th July, 2019. The ends of justice would be met by observing that the results of the elections would be subject to the result of the pending proceedings

before the Hon'ble Minister.

11 In view of the above, this petition is disposed of. The learned AGP shall convey to the Hon'ble Cabinet Minister, Rural Development Department, State of Maharashtra, to issue notices to all the parties concerned for causing a hearing in the appeal as expeditiously as possible and preferably at 3.00 pm on 25.07.2019. Thereafter the Hon'ble Minister would proceed to hear the parties and decide the matter expeditiously. Needless to state, the result of the elections scheduled on 4th July, 2019, would be subject to the result of the pending appeal. No equities would be created in favour of the new *Sarpanch* and in the event the petitioner succeeds and is reinstated as a *Sarpanch*, the new *Sarpanch* shall make way to enable the petitioner to take charge as *Sarpanch*.

(Ravindra V.Ghuge, J.)

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