

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

WRIT PETITION NO. 9875 OF 2019

Chhaya Udaysing Rajput

.. Petitioner

Versus

The Hon'ble Minister Gram Vikas
and others

.. Respondents

Shri M. B. Sandanshiv, Advocate for the Petitioner.

Shri A. R. Kale, A.G.P. for Respondent Nos. 2 to 5.

Shri Amit A. Yadkikar, Advocate for the Caveator.

**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 07TH AUGUST, 2019.

FINAL ORDER :

. Mr. Sandanshiv, the learned advocate for the petitioner submits that, the petitioner has filed an appeal against the order disqualifying the petitioner as Upa Sarpanch and member on 30th July, 2019. Along with appeal, the petitioner has filed stay application. Same is not decided. According to the learned counsel, the election of Sarpanch and Upa Sarpanch be stayed pending appeal of the petitioner.

2. The petitioner today is disqualified, as such does not have right to vote. No doubt, the petitioner has got a remedy of appeal

U/Sec. 39(3) of the Maharashtra Village Panchayat Act and at the same time Sec. 43 of the Maharashtra Village Panchayat Act provides holding of election within a month of the post becoming vacant. The petitioner stood disqualified on 18th July, 2019. The election programme for the post of Upa Sarpanch has not been declared as per the documents placed on record.

3. Considering the fact that, stay application of the petitioner is pending, the respondent No. 1 shall pass orders on the stay application filed by the petitioner in appeal on or before 16th August, 2019. Further proceedings would depend upon the order passed by the respondent No. 1 on the stay application of the petitioner.

4. With these observations, the writ petition is disposed of. No costs.

[MANGESH S. PATIL, J.]

[S. V. GANGAPURWALA, J.]

bsb/August 19