

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11570 OF 2019

NASREEN SALIM SHAIKH
VERSUS
THE STATE OF MAHRASHTRA AND OTHERS

Mr.K.K.Kulkarni, Advocate for the petitioner.
Mr.S.R.Yadav, AGP for respondent Nos. 1 to 3 and 6.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 21/09/2019

PER COURT :

1. I have heard the learned Advocate for the petitioner and the learned AGP on behalf of respondent Nos. 1 to 3 and 6. The issue is that the petitioner, Former Sarpanch has suffered a "No Confidence Motion" and has been ousted. She has preferred an appeal before the District Collector, Osmanabad as per the provisions of the Maharashtra Village Panchayats Act. On 16/09/2019, The Additional Collector called for an opinion from the Law Officer. The Law Officer appears to have informed him that before deciding the appeal, it should inquire into whether the post of Sarpanch has fallen vacant. Accordingly, the Additional Collector directed the Deputy C.E.O. (Panchayat), Zilla Parishad, Osmanabad to inquire into the

matter.

2. The learned Advocate for the petitioner submits that she has received a notice of hearing and her appeal is scheduled on 23/09/2019 and at the same time, an election to have a new Sarpanch, has been scheduled on 27/09/2019.

3. The learned AGP submits that the Additional Collector, Osmanabad would hear the petitioner on 23/09/2019 and would decide the proceedings strictly in accordance with the merits of the matter and the Law applicable.

4. I find from the record that the Additional Collector, in such circumstances, could hear the parties and decide whether he could exercise his discretionary powers judiciously for protecting such a Sarpanch. If he finds prima facie that there are no such circumstances, which would convince him to grant interim relief to the Sarpanch, he could pass an order expressing the reasons for refusing to grant interim relief. Asking the Deputy C.E.O. to inquire into the matter and while hearing the proceedings, the elections are being declared, is a bit unusual, more so, in the backdrop of the Additional Collector having not decided as to whether the petitioner

is entitled for any interim protection.

5. The learned Advocate for the petitioner submits that the petitioner is willing to advance final arguments on 23/09/2019 itself. However, he expresses an apprehension that as the elections are scheduled on 27/09/2019, the Additional Collector is likely to pass an order in haste since he has only 3 days in between 23/09/2019 and 27/09/2019 and that the Additional Collector may not be able to apply his mind to this case.

6. In view of the above, this petition is disposed off with the observation that the Additional Collector, while hearing the litigating sides on 23/09/2019, is at liberty to consider the proceedings finally and if he finds that he would fall short of sufficient/reasonable time to consider the matter and deliver an order, he may consider as to whether the elections posted on 27/09/2019 could be postponed. This aspect is left to the wisdom of the Additional Collector and he is expected to exercise his discretionary powers judiciously.

(Ravindra V.Ghuge, J.)