

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

WRIT PETITION NO.11836 OF 2018

**SAKHARI PIRTABA MOHAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the Petitioner : Shri B. B. Yenge
AGP for Respondent No.1 : Shri N. T. Bhagat
Advocate for Respondent No. 2 : Shri R. R. Karpe
...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 25th APRIL, 2019.

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PER COURT :

1. This matter was heard extensively on 07/03/2019, 28/03/2019 and 18/04/2019 and practically for about 2 hours today.

2. I have perused the entire record available before the Court including certain documents that have been cited, on the basis of they having been placed before the District Collector when he passed the order dated 17/04/2018 disqualifying respondent No.2 as the Member and Sarpanch of Village Panchayat, Sarala, Post Malewadi, Taluka Shrirampur, District Ahmednagar.

3. After considering the entire record before me and upon taking a view in this matter, I called upon the learned Advocate representing respondent No.2 as to whether she would desire to resign as a member and sarpanch of the said Village Panchayat or whether I should proceed to deliver my order. The learned Advocate has taken instructions from the father-in-law of respondent No. 2, who is present in the Court and submits that respondent No.2 shall resign as a Sarpanch and as a Member, forthwith rather than inviting any conclusions / observations from this Court.

4. The learned Advocate for the petitioner submits on instructions from the petitioner, who is present in the Court, that the petitioner would not insist on an order being delivered by this Court since respondent No. 2 is resigning from her membership and position of a Sarpanch.

5. Considering the above, this petition is disposed off. The impugned order passed by the Additional Divisional Commissioner dated 01/08/2018 shall lose its efficacy forthwith and the order of the District Collector, dated

17/04/2018 would be rendered of an academic interest as respondent No.2 would be quitting her position.

6. As such, the second respondent, Smt. Priyanka Janardan Rokde, shall tender her resignation before the competent authority, on or before 29/04/2019. Her resignation as member of the Village Panchayat and as the Sarpanch would be accepted by the competent authority. Consequentially, the elections for the post of Sarpanch shall be conducted by the State Election Commission forthwith by following the due procedure laid down in law. Needless to state, the State Election Commission shall initially conduct the elections for filling in the post that has fallen vacant on account of the above and thereafter would conduct the elections for the post of a Sarpanch. Until the elections for the post of Sarpanch is held, the Up-Sarpanch would continue to officiate as the Sarpanch.

7. It is made clear that considering the observations of the District Collector in his order dated 17/04/2018 and since this Court has not delivered its order as the second respondent

wanted to avoid observations under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act, 1958, she shall be restrained from participating in the ensuing elections to the position of a member and naturally the position of a Sarpanch, which would be held under the above Act for the remainder tenure.

(RAVINDRA V. GHUGE, J.)

shp/-