

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

908 . WRIT PETITION NO. 219 of 2019

Parwatibai W/o Changdeo Dhatrak
age 55 years occupation *Sarpanch*,
Gram Panchayat, Mirpur R/o at post Mirpur
Taluka Sangamner District Ahmednagar.

...Petitioner

VERSUS

1. The State of Maharashtra and others
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai – 400 032.
2. The Additional Commissioner,
Division Nashik, Nashik
3. The Collector,
Ahmednagar
4. The Tahsildar,
Tahsil Office, Sangamner
Taluka Sangamner District Ahmednagar.
5. The Block Development Officer,
Panchayat Samiti, Sangamner
Taluka Sangamner District Ahmednagar
6. The Gram Sevak,
Gram Panchayat, Mirpur
Taluka Sangamner Dist. Ahmednagar
7. The Chairman,
Panchayat Samiti, Sangamner
Taluka Sangamner Dist. Ahmednagar.
8. Ramesh S/o Bhagwan Kapkar,
age major occup. Member of Grampanchayat,
Mirpur R/o Mirpur Tal. Sangamner Dist. Ahmednagar.

9. Yamuna W/o Nandu Telang,
age major occupation & R/o as above.
10. Sunita Rajendra Telang,
age major occupation & R/o as above.
11. Govind S/o Baban Targe,
age major occupation & R/o as above. ...Respondents

Mr. Amol B. Chalak, Advocate, holding for Mr. Avinash S. Khedkar, Advocates for petitioner

Mr. S.N. Kendre, Asstt. Govt. Pleader for respondents No. 1 to 4
Mr. S.S. Wagh, Advocate, holding for Mr. S.T. Shelke, Advocate for respondents No. 5 & 6

Mr. Manish P. Tripathi, Advocate, holding for Mr. Mahesh S. Deshmukh, Advocate for respondents No. 8 to 11

CORAM : SUNIL P. DESHMUKH, J.

DATE : 15th February, 2019

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith. Heard learned counsel for appearing parties finally with consent.

2. Succinctly stated, it is case of the petitioner that dispute pursuant to provisions of section 29 of the Maharashtra Village *Panchayats* Act, 1958 (hereinafter referred to as "the Act") claiming that her resignation as *Sarpanch* was obtained by playing fraud, had been turned down on 29th September, 2018 by the Collector, Ahmednagar. The petitioner states that she

received knowledge of the same only on 12th October, 2018 and had preferred appeal against said order under section 29(4) of the Act to further authority i.e. Additional Commissioner, Nashik, on 17th October, 2018. The same is considered to be filed beyond the period of seven days referable to the provisions and, consequently, impugned order has been passed rejecting request for delay condonation made by petitioner.

3. Learned counsel for respondents purports to resist the request stating that the petitioner has preferred an appeal beyond the period of limitation as prescribed under the provisions of section 29 of the Act and, thus, he supports order passed by the commissioner, annexed with the writ petition Exhibit - G.

4. Impugned order turns out to be a cursory consideration since neither there is reference to the claim of petitioner about her getting knowledge on 12th October, 2018 and in the circumstances, appeal having filed on 17th October, 2018 being within limitation nor there is any discussion with reference to the same. Further, going by analogy as would be emerging from decision of a Division Bench of this court in writ petition no. 9658 of 2016, the application for condonation of delay ought to have received its due while the date as referred to about knowledge of the decision of the collector and the date about

filing of the appeal against order of the collector are not seriously disputed. No contrary view has been placed on record.

5. Having regard to aforesaid observation in decision of writ petition no. 9658 of 2016 and considerations, writ petition is allowed in terms of prayer clause 'B'. Impugned order dated 4th December, 2018 passed by Additional Commissioner, Nashik, in *Gram Panchayat* appeal no. 93 of 2018 is set aside. Delay is condoned. Appeal of the appellant/petitioner be proceeded with expeditiously.

6. Parties to appear before the Additional Commissioner, Nashik, on 7th April, 2019.

7. Writ petition is disposed of in aforesaid terms.

8. Rule is made absolute.

**(SUNIL P. DESHMUKH)
JUDGE.**

Madkar