

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12025 OF 2019

Pramod Purushottam Deshmukh ... Petitioner
Vs.
Suman Madhukar Kharat and others ... Respondents

Mr. Avinash Fatangare i/b. Ms Vishakha V. Pandit for Petitioner.
Mr. Rajaram P. Lote for Respondent No.1.
Mr. S. P. Thorat for Respondent No.3.
Mrs. V. S. Nimbalkar, AGP for Respondent Nos.4 and 6-State.

CORAM : UJJAL BHUYAN, J.
DATE : DECEMBER 18, 2019

P.C. :

Heard Mr. Fatangare, learned counsel for the petitioner; Mr. Lote, learned counsel for respondent No.1; Mr. Thorat, learned counsel for respondent No.3; and Mrs. Nimbalkar, learned AGP for respondent Nos.4 and 6-State.

2. Petitioner was elected as member of Mharal *Grampanchayat* in the election which took place in the year 2015. Thereafter, he was elected to the post of *Upsarpanch*.

3. Respondent No.1 lodged complaint against the petitioner alleging that he had committed illegalities. By order dated 25.10.2019, respondent No.4 accepted the complaint of respondent No.1 and removed the petitioner from the post of *Upsarpanch* as well as Member.

4. Under Section 39(3) of the Maharashtra Village Panchayats Act, 1959, an appeal is provided against such disqualification. It is submitted that in terms of Section 39(3), petitioner has preferred appeal on 18.11.2019 before the Hon'ble Minister of Gramvikas Department. However, no decision has been taken by the Appellate Authority.

4.1. In such circumstances, the present writ petition has been filed.

5. Since the petitioner has already availed his statutory remedy by way of appeal, Court is of the view that it would be just and proper if the Appellate Authority hears and decides the appeal filed by the petitioner one way or the other in accordance with law.

6. At this stage, learned counsel for the petitioner submits that along with the appeal, he has also filed an interim application for stay.

7. Without expressing any opinion on merit and keeping all contentions open, it is hereby directed that the Appellate Authority shall take on board the appeal filed by the petitioner on 18.11.2019 along with the interim application and pass appropriate order in accordance with law within a period of two months from the date of appearance.

7.1. Since the contesting parties are before the Court, let them appear before the Appellate Authority on 30.12.2019 at 3.00 p.m. whereafter the Appellate Authority shall proceed with the appeal and decide the same as indicated above.

8. Writ Petition is disposed of.

(UJJAL BHUYAN, J.)

Minal Parab