

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.2419 OF 2017

Mahesh Nanu Kewat
-vs-
Chief Executive Officer and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri Alok Daga, Advocate for petitioner.
Shri Anoop Parihar, Advocate for respondent Nos.1 & 3.
Ms M. S. Naik, AGP for respondent No.2.

CORAM : A.S.CHANDURKAR, J.
DATE : March 12, 2019

In view of notice for final disposal issued earlier, parties have been heard at length.

The order dated 14/03/2017 passed by the learned Additional Commissioner in proceedings under Section 39(1) of the Maharashtra Village Panchayats Act, 1959 (for short, the said Act) is under challenge in this writ petition. On behalf of the respondent No.2 the learned Assistant Government Pleader has raised a preliminary objection to the maintainability of the writ petition on the ground that an alternate statutory remedy is available to the petitioner. Reference is made to the provisions of Section 39(3) of the said Act.

Considering the fact that an alternate statutory remedy is available to the petitioner and there being no reason for not

availing the same, the preliminary objection is upheld.

Accordingly the following order is passed :

- (i) It is open for the petitioner to challenge order dated 14/03/2017 passed by the Additional Commissioner by filing such proceedings under Section 39(3) of the said Act.
- (ii) For a period of three weeks from today the ad-interim relief that was granted on 20/04/2017 shall continue to operate.
- (iii) If proceedings under Section 39(3) of the said Act are filed by the petitioner same shall be entertained and decided on their own merits without going into the question of limitation. The continuation of the ad-interim relief for a period of three weeks shall not work to the prejudice of either of the parties.
- (iv) Keeping the points as raised in the writ petition open, the writ petition is disposed of. No costs.

JUDGE