

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4104 OF 2019

(SURESH VASANTRAO ONKARE & OTH...VS.. DIVISIONAL COMMISSIONER, AMRAVATI & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.D.Karode, Advocate for Petitioners.
Ms Geeta Tiwari, A.G.P. for Respondent No.1.
Shri S.D.Chopde, Advocate for Respondent Nos. 5 to 13.

CORAM : Z.A.HAQ, J.

DATED : JULY 24, 2019.

Heard.

The Advocate for the respondent Nos. 5 to 13 and the A.G.P. raised an objection to the maintainability of the petition on the ground that the impugned order can be challenged under Section 39(3) of the Maharashtra Village Panchayats Act, 1958 (hereinafter referred to as “the Act of 1958”). The learned Advocate for the petitioners submitted that the challenges raised in the petition can be considered and the legality of the impugned order can be examined by this Court in the extraordinary jurisdiction and the petitioners need not be relegated to the alternate remedy.

The petitioners are disqualified under Section 39 of the Act of 1958. Though the petitioners claim that Chief Executive Officer, Zilla Parishad has not conducted any inquiry independently, the respondent Nos. 5 to 13 have pointed out that Chief Executive Officer has conducted inquiry independently and has submitted report to the Divisional Commissioner along with the communication dated 31st January 2019.

According to the petitioners, the cause for initiating inquiry against the petitioner under Section 39 of the Act of 1958 does not survive, as the complaint lodged to the police against the petitioner is withdrawn. The respondent Nos. 5 to 13 contend that the complaint is withdrawn because of the pressure of the petitioners, the petitioner No.1 being husband of Sarpanch of the Gram Panchayat.

Considering the disputed questions of fact, I am not inclined to entertain this petition. The petitioners will be at liberty to avail alternate statutory remedy under Section 39(3) of the Act of 1958.

The writ petition is **disposed** accordingly. In the circumstances, the parties to bear their own costs.

JUDGE

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