

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

WRIT PETITION NO.7170 OF 2019

Sau. Sindhu Vilas Mali.

Vs.

Smt. Rupali Umeshrao Kathalkar and others.

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

Court's or Judge's orders

Shri D. S. Patil, Advocate for petitioner.
Shri A. S. Thotange, Advocate for respondent no.1.
Shri A. M. Kadukar, AGP for respondent nos.3 and 4.

CORAM : A. S. CHANDURKAR, J.

DATE : NOVEMBER 07, 2019.

Rule. Heard finally considering the short issue involved. Service on respondent no.2 is dispensed with.

The petitioner has been disqualified from continuing as Sarpanch of Village Panchayat Patsul, Tq. Akot, District Akola. The Collector by the order dated 30.09.2019 has held that in view of provisions of sub-Section 14(1)(j-5) of the Maharashtra Village Panchayats Act, 1958 (for short 'the said Act'), the petitioner has incurred disqualification. On 09.10.2019 the petitioner filed an appeal under Section 16(2) of the said Act. The Divisional Commissioner noticed that Caveat had been filed by the respondent no.1 and hence no interim orders were passed. After issuing notices to the parties the appeal was kept for further consideration on 19.11.2019 after admitting it. Since no order was passed on the application for stay, the petitioner has approached this Court seeking to challenge the order dated 30.09.2019 passed by the Additional Collector.

After hearing learned counsel for the parties, it is seen

that the appeal filed by the petitioner is admitted and it is pending with the Divisional Commissioner. Since the petitioner has been disqualified from continuing as Sarpanch the application for stay ought to be adjudicated expeditiously. Accordingly following directions are issued--:

The parties should remain present before Divisional Commissioner on 30/11/2019 at 11.00 a.m. The respondent no.1 is free to file reply to the stay application by that date. The Divisional Commissioner shall consider the application of stay and after hearing all parties decide that application on its own merits. Till the stay application is decided, no steps be taken to fill the vacancy caused by the disqualification of the petitioner. This direction is without prejudice to the rights of the parties. The Assistant Government Pleader to communicate the order to the respondent no.4.

The Writ Petition is partly allowed. Rule is made absolute in aforesaid terms. No costs.

JUDGE

Sarkate