

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

Writ Petition No.7174 of 2019

Manda Rathod Vs. Divisional Commissioner, Amravati and others

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

Court's or Judge's orders

Mr. M.P. Kariya, Advocate for the petitioner
Mr. Nikhil Joshi, AGP for the respondent No.1
Mr. R. Tajne, Advocate for the respondents No.2 and 3.
Mr. S. Raisuddin, Advocate for the respondent No.5.

CORAM : MANISH PITALE, J.

DATED : JANUARY 28, 2020

By this writ petition, the petitioner has challenged order passed under Section 39(1) of the Maharashtra Village Panchayat Act, whereby she was removed from elected post of Sarpanch. This Court issued notice in the writ petition on 18/10/2019, by recording the submission of the learned counsel for the petitioner that enquiry in the present case was not conducted by the Chief Executive Officer as mandated in the statutory provision and, therefore, there was violation of law as laid down by this Court in the case of **Nimba Yadav Bhoi Vs. President, Standing Committee, Zilla Parishad, Jalgaon and others 2002(3) Mh.L.J. 466.**

2. The petitioner filed this petition directly before this Court despite availability of remedy of appeal under Section 39(3) of the aforesaid Act due to following reasons stated in the writ petition.

“It is submitted that the petitioner has very good case on merit. Due to assembly elections, there is no authority available in Mantralaya Mumbai till the formation of new Government and the order of disqualification is without following the due process of law. There is a urgent need of stay to the impugned order, therefore the petitioner has no option than to approach before this Hon’ble Court directly.”

3. It is undisputed that now the Appellate Authority of the State Government is available, therefore, this writ petition can be disposed of. The present writ petition is disposed of with liberty to the petitioner to approach the Appellate Authority under Section 39(3) of the said Act within a period of two weeks from today. Considering the nature of submissions made on behalf of the petitioner, the parties are directed to maintain status quo for a period of three weeks from today, in order to enable the petitioner to approach the Appellate Authority of the State Government. The petitioner would be at liberty to apply for interim relief before the Appellate Authority.

4. Upon such appeal being filed the Appellate Authority shall dispose of the same expeditiously and in any case within a period of three months from today.

5. The writ petition is disposed of.

JUDGE