

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

WRIT PETITION NO.2468/2021

Vijay S/o Marotrao Pachare,
aged 53 Yrs., Occ. Sarpanch,
R/o Gram Panchayat Hiwarkhed,
Tq. Morshi, Dist. Amravati.

..Petitioner.

..Vs..

1. The Divisional Commissioner,
Amravati Division, Amravati.
2. The Chief Executive Officer,
Zilla Parishad, Amravati,
Dist. Amravati.
3. Block Development Officer,
Panchayat Samiti Morshi,
Dist. Amravati.
4. Diwakar S/o Bajirao Pachare,
aged about 52 Yrs., Occ. Agriculturist,
R/o Hiwarkhed, Tq. Morshi,
Dist. Amravati.

..Respondents.

Shri M.D. Lakhey, Advocate for the petitioner.
Shri N.R. Patil, A.G.P. for respondent No.1.

CORAM :- SUNIL B. SHUKRE AND
ANIL S. KILOR, JJ.
DATED :- 16.7.2021.

ORAL JUDGMENT *(Per Sunil B. Shukre, J.)*

Hearing is conducted through Video Conferencing and all the learned Advocates agreed that the audio and visual quality was proper.

2. Heard Shri M.D. Lakhey, learned counsel for the petitioner. He

submits that on the complaint of respondent No.4 made under Section 39(1) of Maharashtra Village Panchayats Act, 1959 before respondent No.1, an enquiry was ordered by respondent No.1 to be conducted by respondent No.3. In this enquiry, it is further submitted that, the petitioner filed his written explanation denying all the adverse allegations made against him. It is further submitted that on 8.7.2021 when the enquiry was fixed for hearing and the learned counsel for the petitioner was present, it was noticed that respondent No.1 actually closed the enquiry for orders and that respondent No.1 had decided to take into consideration final enquiry report received by him, copy of which was not made available to the petitioner. Learned counsel for the petitioner submits that the enquiry report submitted by respondent No.2, to the knowledge of the petitioner, is adverse to the interest of petitioner and, therefore, it is all the more necessary for respondent No.1 to have provided copy of the same to the petitioner but that was not done and thus there is denial of opportunity of hearing and violation of principle of natural justice.

3. Having considered the submissions made across the Bar, we are of the view that this matter can be disposed of by issuing necessary directions to the enquiry officer who is respondent No.1. On his behalf, Shri Neeraj Patil, learned A.G.P, who appears by waiving notice for respondent No.1, also agrees that this petition can be

disposed of. With this, there is no need to issue notice to the respondents against whom the relief has not been sought. Hence,

Rule. Rule made returnable early. Heard finally by consent.

4. In view of the submissions noted above and also the fact that now copy of the enquiry report submitted by respondent No.2 has also been received by the petitioner, we direct the petitioner to submit his say in respect of the same before respondent No.1 and we further direct respondent No.1 to hear the petitioner and the respondent No.4 in the matter, if the petitioner and respondent No.4 wish to be heard by respondent No.1 and thereafter pass an appropriate order, in accordance with law. The petitioner to appear before respondent No.1 on 27.7.2021 on which date he may file his say on the report of respondent No.2. Respondent No.4 may also appear on 27.7.2021 and in case, he does not appear on that day, notice be issued to him for his appearance by fixing an appropriate date. The final decision in the matter shall be taken by respondent No.1 within three months from 27.7.2021. Rule accordingly. No costs.

JUDGE

JUDGE