

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1012 OF 2021

DEVIDAS NARAYAN MORE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Subodh P. Shah, Advocate for the Petitioner.

Mr. A. S. Shinde, AGP for Respondents-State.

Mr. A. B. Kadethankar, Advocate for Respondent No.3.

...

CORAM : SANDEEP V. MARNE, J.

DATED : 05th SEPTEMBER, 2022.

PER COURT:-

1. By the present petition, the petitioner challenges order dated 09.12.2020 passed by the Minister for Rural Development in Appeal filed by respondent no.2. By the impugned order, the order of the Collector disqualifying respondent no.2 has been stayed.

2. Mr. Shah, learned counsel appearing for the petitioner submits that by way of an ad-interim order passed on 19.01.2021, the impugned order dated 09.12.2020 has been stayed by this Court. He submits that on account of stay on the interim order passed by the Minister for Rural Development,

respondent no.2 continues to remain under disqualification.

3. Respondent no.2 has been served with a notice of the present petition, but has chosen to remain absent. In view of the order that I am proposing to pass, it is not necessary to issue fresh notice to respondent no.2.

4. Mr. Shinde, learned A.G.P. submits that bye-elections for the post of Sarpanch has been held on 13.06.2022 and someone else has been elected as Sarpanch.

5. Respondent no.2 had filed Writ Petition No.7924/2020 for expediting the Appeal filed by her before the Minister for Rural Development. In that Writ Petition, order has already been passed on 01.12.2020 directing that the Hon'ble Minister may endeavour to decide the Appeal within a period of eight weeks. It appears that, the said Appeal is still pending. Instead of deciding the Appeal within the time limit suggested by this Court, it appears that stay order came to be granted by the Minister for Rural Development on 09.12.2020.

6. Mr. Shah, invites my attention to Full Bench decision of this Court in **Anant H. Ulahalkar and Anr. Vs. Chief Election Commissioner and Ors.** and submits that the disqualification of respondent no.2 is automatic and could not have been stayed by the Minister for Rural Development. Be that as it

may. The position that stands today is that the Appeal filed by respondent no.2 is still pending. Even though interim order was passed by the Minister for Rural Development thereby staying the disqualification order issued by the Collector, this Court has stayed the order of the Minister for Rural Development and the said interim protection continues to operate. There are two orders by which the Minister for Rural Development has been granted liberty to hear and decide the Appeal. By order dated 01.12.2020 passed in Writ Petition No.7924/2020, the Appeal was directed to be decided within a period of eight weeks. Again while passing the ad-interim order on 19.01.2021, the Minister for Rural Development was granted liberty to hear Appeal or stay application and pass necessary order. It appears that, the Appeal has still not been decided. However, on account of ad-interim order passed by this Court, the disqualification of respondent no.2 continues to operate. In these circumstances, the present petition can conveniently be disposed of by directing that the Appeal filed by respondent no.2 be decided within a period of eight weeks from today. While deciding the Appeal, the factum of election being held and someone else being elected as Sarpanch may be taken into account. The ad-interim protection granted by this Court shall continue to operate till the decision of the Appeal.

7. The petition is accordingly disposed of.
No costs.

(SANDEEP V. MARNE)
JUDGE

Devendra/September-2022