

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

911 WRIT PETITION NO. 826 OF 2021

KAILAS JULAL PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. P. D. Bachate h/f Mr. D.S. Bagul
Addl. GP for Respondent Nos. 1 & 2 : Mr. P. S. Patil
Advocate for Respondent Nos. 3 & 4 : Mr. M.S. Sonawane
Advocate for Respondent No. 5 : Mr. V. V. Pawar
Advocate for Respondent No. 6 : Mr. S.S. Tope

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**CORAM : RAVINDRA V. GHUGE AND
S. G. DIGE, JJ.**

DATE : 29th MARCH, 2022

PER COURT :-

1. By this petition, the petitioner seeks immediate and speedy action under Section 39 of the Maharashtra Village Panchayats Act, 1959 against respondent No. 6.
2. We have considered the submissions of the leaned Advocates for the respective sides. We have perused the prayer clauses "B", "C", "D" and "D", which read as under:

"B) By way of appropriate writ, order or direction in the like nature, the respondent authorities be directed to initiate and complete the inquiry and further submit a report and to take appropriate action against the present respondent No. 5 & 6 and other culprits as per the Government Circular dated 4/1/2017.

C) By appropriate Writ Order or direction in the like nature, an appropriate action should be initiated against

the respondent No. 4 for deliberately violating the Government circular dated 4/1/2017 issued by the State Government.

D) By appropriate Writ, order or directions in the like nature, the respondent No. 2 and 3 be directed to appoint an independent inquiry officer excluding respondent No. 4 to initiate and complete the inquiry within stipulated time.

D) Pending hearing and final disposal of this Writ Petition, the respondent authorities be directed to initiate and complete the inquiry and further submit a report and to take appropriate action against the present respondent No. 5 & 6 and other culprits as per the Government Circular dated 4/1/2017.”

3. We are of the view that Section 39 has a complete mechanism to deal with the misdeeds committed by the elected representatives of the rank of Sarpanch and Upa-sarpanch. The entire procedure prescribed under Section 39 has to be followed and a reasonable opportunity has to be granted to every authority performing a task, which is expected under Section 39. There can neither be a shortcut to the procedure, nor can this Court in the absence of any factors indicating delayed action, issue time bound directions for completing action under Section 39.

4. We are informed that the authorities entrusted with the duties under Section 39 have been taking steps and in the month of July, i.e. on 15-07-2021, the Deputy Chief Executive Officer of the Zilla Parishad has prepared his report. After formalization of the same, he would forward it to the Chief Executive Officer and thereafter the report would be transmitted to the Divisional Commissioner.

5. To say the least, we are not going to monitor such proceedings under Section 39 pertaining to removal of Sarpanch or Upa-sarpanch from his office by exercising our extraordinary jurisdiction under Article 226 of the Constitution of India, unless we are convinced that there is a cover up operation undertaken or that inordinate delay has been caused in completing the exercise.

6. In view of the above, this petition is disposed off/dismissed.

7. Needless to state, the authorities entrusted with their duties under Section 39, are expected to complete their duties in accordance with the procedure and law.

(S.G. DIGE)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE