

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9577 OF 2022**

Sudhir Ganpat GaikwadPetitioner
Versus
Divisional Commissioner, Kokan Division and ors.Respondents

Mr. Kirit Hakani along with Mr. Rahul Hakani and Ms. Niyati Mankar,
Advocates for the Petitioner.

Mr. A. I. Patel, Addl. GP along with Ms. M. S. Bane, AGP for Respondent
Nos.1 and 2.

**CORAM : PRASANNA B. VARALE &
KISHORE C. SANT, JJ.**

DATE : 18th AUGUST, 2022.

P.C. :

1. Heard learned counsel for the petitioner.
2. Learned counsel for the petitioner submitted that though by way of prayer clause (a), the challenge is raised to an order dated 20th June, 2022, passed by the Divisional Commissioner, Konkan Division, the petitioner has availed the remedy of appeal against the said order passed by the Divisional Commissioner, Konkan Division, Navi Mumbai. In peculiar circumstances, the petitioner prayed for grant of prayer clause (b).

3. Perusal of the documents placed on record show that respondent Nos.3, 4, 5, 6 and 7 lodged complaint to Block Development Officer, Panchayat Samiti, Ambernath. On receipt of the complaint, an enquiry was conducted and enquiry report was submitted to Chief Executive Officer, Zilla Parishad, Thane. Accordingly, recommendation was submitted to the competent authority for declaration of disqualification of the petitioner who was respondent before the Divisional Commissioner. The Divisional Commissioner, vide order dated 20th June, 2022, declared the disqualification of the petitioner as the member of Grampanchayat Rahatoli, Taluka Ambernath, District Thane. Being aggrieved by the order of the Divisional Commissioner dated 20th June, 2022, the petitioner immediately within a span of eight days filed a revision application before the Hon'ble Minister. Though remedy was availed by the petitioner of appeal, the proceeding is referred to as revision application. A copy of the memo of the said proceedings is placed on record at Exhibit – B, page 24. A specific prayer is made in the memo of the said proceeding i.e. prayer clause (d) seeking stay of the order dated 20th June, 2022 passed by the Divisional Commissioner, Konkan Division, Navi Mumbai. Along with the said proceedings, the petitioner filed a separate application for grant of stay. Learned counsel for the petitioner submitted that various grounds are raised in the proceedings in challenge to the order passed by the Divisional Commissioner. It is further submitted before this Court that in view of

peculiar circumstances viz. delay in formation of the ministry and distribution of portfolios, the proceedings along with the application for grant of stay is pending and for considerable length of period neither the proceedings would be heard nor any order would be passed on the application for grant of stay and for no fault of the petitioner, if no interim orders are passed and effect is given to the order passed by the Divisional Commissioner, the petitioner would be subjected to a serious prejudice. It is also submitted by learned counsel for the petitioner that if the petitioner is not protected in the meantime, the entire attempt of the petitioner approaching this Court would be nothing but a futile exercise. As such, learned counsel prays for orders in terms of prayer clause (b) of the petition.

4. Considering this factual aspects, we are of the opinion that the petition itself can be disposed of with certain directions whereby the petitioner can also be protected and the authorities can also be at liberty to decide the proceedings on its own merits. Accordingly, we pass the following order :

ORDER

1. The competent authority, before whom, the appeal along with the application is pending, shall decide the application for grant of stay as expeditiously as possible and not later than four weeks from today.

2. Meantime, till the orders are passed by the competent authority on the stay application, there shall be a stay to the order dated 20th June, 2022, passed by the Divisional Commissioner, Kokan Division, Navi Mumbai.

3. Needless to state that as soon as the order is passed by the competent authority in the stay application in the proceedings preferred by the petitioner, the interim order granted by this Court shall stand vacated, if the same is not already vacated till date.

With these directions, the writ petition is disposed of.

5. All concerned to act upon a copy of this order, duly authenticated by the Registry of this Court.

(KISHORE C. SANT, J.)

(PRASANNA B. VARALE, J.)