

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

WRIT PETITION NO. 3100 OF 2022

Sau. Ujwala w/o Prashik Wankhede vs. State of Maharashtra and others

WRIT PETITION NO. 3101 OF 2022

Sau. Ujwala w/o Prashik Wankhede vs. State of Maharashtra and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. A.B.Mirza, Advocate for petitioner.

Mr. A.A.Madiwale, AGP for respondent Nos.1 and 2 in
WP No.3100/2022.

Ms. H.N.Jaipurkar, AGP for respondent Nos.1 and 2 in
WP No.3101/2022.

Mr. Ram Karode, learned Advocate for respondent No.6
in WP No.3100/2022 and for respondent Nos. 6 and 7 in
WP No. 3101/2022

CORAM : AVINASH G. GHAROTE J.

DATE : 16/11/2022

Heard Mr.Mirza, learned counsel for
petitioner in both the petitions, Mr.Karode, learned
counsel for respondent No.6 in W. P. No.3100/2022
and for respondent Nos.6 and 7 in W.P. No.3101/2022
and learned Assistant Government Pleaders for
respondent State in respective petitions.

2. The facts in both these matters are identical including the dates and the orders, considering which the facts in W. P. No.3100 of 2022 are being considered for the purpose of deciding the present petition.

3. The petitioner challenges the order dated 10/01/2022 passed by the respondent No.2 – Divisional Commissioner(page77), whereby the petitioner has been disqualified under Section 39(1) of the Maharashtra Village Panchayats Act, 1959. The said disqualification has been upheld by the respondent No.1 – Minister of Rural Development, Maharashtra State by its order dated 26/05/2022 (page99).

4. The basic ground of attack by Mr.Mirza learned counsel for the petitioner is that on 21/12/2021, when the matter was fixed for hearing before the respondent No.2–Divisional Commissioner, the petitioner was ill and was advised to take bed rest, in support of which a medical certificate issued by Dr.Ashok Bhopale, dated 13/12/2021(page71) which indicates that the petitioner was advised treatment and rest for the period 13/12/2021 to 28/12/2021, has been placed on record. In pursuance to the same, on 24/12/2021 the petitioner

has submitted an application (page 73) for participation in the proceeding, which does not appear to have been decided, however, the matter was closed for orders on 21/12/2021 itself. The order sheet has been tendered across the bar and it is marked as 'X' for the purpose of identification, from a perusal of which it is apparent that the petitioner has been denied an opportunity to represent her case before the respondent No.2 – Divisional Commissioner.

5. The above said position has not been considered by the respondent No.1 – Minister of State in the impugned order passed by him (page 99), on which ground alone the same is hereby quashed and set aside and the matter is remanded back to respondent No.2 – Divisional Commissioner for deciding the application afresh by providing an opportunity to the petitioner as contemplated by law.

6. Parties shall appear before the respondent No.2 – Divisional Commissioner, Amravati on **22/11/2022 at 11.30 a.m.**

7. Writ Petitions are disposed of in above terms.