

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

WRIT PETITION NO.5609/2022

Sau. Aarti W/o Khushal Tavar,
aged about 25 Yrs., Occ. Housewife,
R/o Giroli, Tq. Manora, Dist. Washim. ... Petitioner

- Versus -

1. Chief Executive Officer,
Zilla Parishad, Washim.
2. Block Development Officer, Panchayat
Samiti, Manora, Dist. Washim.
3. Secretary, Gram Panchayat, Giroli,
Tq. Manora, Dist. Washim.
4. Narendra S/o Sakharam Dakhore,
aged about 61 Yrs. Occ. Agriculturist,
R/o Giroli, Tq. Manora, Dist. Washim.
5. Extension Officer,
Panchayat Samiti, Manora,
Dist. Washim.
6. Dy. Chief Executive Officer
(Panchayat), Zilla Parishad, Washim.
7. Divisional Commissioner, Amravati
Division, Amravati. ... Respondents

Mr. Sankalp Andhare, Advocate h/f Mr. A.V. Band, Advocate for the Petitioner.

Mr. Amol Deshpande, Advocate for respondent Nos.1 to 3.

Mr. A.B. Mirza, Advocate for respondent No.4.

Mr. N.S. Rao, Assistant Government Pleader for Respondent No.7.

**CORAM : SUNIL B. SHUKRE
AND ANIL L. PANSARE, JJ.
DATE : 15.11.2022**

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

Heard. **Rule.** Rule made returnable forthwith.

Heard finally by consent of learned counsel for the parties.

2. In terms of the proviso to Section 39 of the Maharashtra Village Panchayats Act, 1959 (for short "Act of 1959) any enquiry directed to be conducted for deciding the issue of removal from office of any Member or Sarpanch or Up-Sarpanch alleged to be guilty of misconduct in discharge of

his duty or any disgraceful conduct or any neglect or any incapacity to perform his duty or is persistently defaulting in discharge of his duty, must be conducted by the Chief Executive Officer or even by Deputy Chief Executive Officer on the directions issued by the Chief Executive Officer, if the enquiry is pertaining to the complaint for removal from office of the Member or Sarpanch or Up-Sarpanch on the ground that such Member or Sarpanch or Up-Sarpanch has failed to place annual accounts and the report of expenditure before the Gramsabha. So, it is only the Chief Executive Officer or in some cases, the Deputy Chief Executive Officer who is entrusted with the task of conducting an enquiry in terms of Section 39 of the Act of 1959. When something is directed to be done only in a particular way by the settled law, it must be done in that way only. Applying this principle of law, we find that enquiry conducted by the Block Development Officer of Panchayat Samiti i.e. respondent No.2 is in violation of the mandatory and statutory provisions of law and, therefore, deserves to be quashed and set aside.

3. The petition is, therefore, allowed. The impugned enquiry report dated 13.6.2022 is hereby quashed and set aside. Respondent No.1 is directed to conduct a fresh enquiry in terms of the directions issued by the Commissioner and submit his report to the Commissioner within the stipulated time as required under Section 39 of the Act of 1959.

4. Rule is made absolute in the above terms. No costs.

(ANIL L. PANSARE, J.)

(SUNIL B. SHUKRE, J.)

Tambaskar.