

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

WRIT PETITION NO. 5141 OF 2023

Nagesh Ramdas Gulewad .. Petitioner

Versus

The Chief Election Commissioner
and others .. Respondents

Shri Umakant B. Deshmukh, Advocate for the Petitioner.
Shri A. B. Kadethankar, Advocate for the Respondent No. 1.
Shri P. K. Lakhotiya, A.G.P. for the Respondent Nos. 2 to 4 & 6.
Shri S. B. Pulkundwar, Advocate for Respondent Nos. 5 and 7.

**CORAM : NITIN W. SAMBRE AND
S. G. CHAPALGAONKAR, JJ.
DATE : 02ND MAY, 2023.**

FINAL ORDER :

. After the election of the petitioner as member of the village panchayat was set aside on the ground of disqualification, an appeal under Section 39(C) Sub Section 3 of the Maharashtra Village Panchayat Act came to be preferred before the State Government questioning the order dated 20th July, 2022 passed by the Additional Commissioner, Aurangabad Division, Aurangabad.

2. In spite of the fact that appeal is pending since July 2022, it is claimed that the respondent/State Government has not decided the same. The contentions of the learned counsel for the petitioner are on one hand the respondent/State is not deciding

the statutory appeal of the petitioner and on the other hand the respondent No. 1 has declared by-election for the post of member of gram panchayat in relation to which aforesaid appeal is subjudice. As such he would urge that by-elections are required to be stayed till the decision of the appeal.

3. Mr. Lakhotiya, learned Assistant Government Pleader appearing for respondents/State submits that the appeal can be decided within a reasonable period.

4. In view of above, we deem it appropriate to direct the State Government to decide the appeal of the petitioner preferred under Sub Section 3 of Section 39(C) of the Maharashtra Village Panchayat Act as expeditiously as possible and in any case by 31st August, 2023.

5. We hereby clarify that result of by-election shall be subject to outcome of said appeal and it shall be duty of the Returning Officer to intimate all the candidates contesting by-election about aforesaid condition. With above observations petition stands disposed of.

[S. G. CHAPALGAONKAR, J.]

[NITIN W. SAMBRE , J.]

bsb/May 23