

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

904 WRIT PETITION NO.8537 OF 2023

**KIRAN DNYANESHWAR MORE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS**

...

Advocate for Petitioner : Mr. Nilesh N. Bhagwat
AGP for Respondents State: Mr. P. K. Lakhotiya

CORAM : RAVINDRA V. GHUGE, &
Y. G. KHOBRAGADE, JJ.

DATE : 18th July, 2023

ORDER:

1. The petitioner has tendered an application to the Divisional Commissioner's Officer under section 39 of the Maharashtra Village Panchayats Act seeking removal of the Sarpanch from his office. That Sarpanch, however, is not arrayed as a respondent in this petition.

2. The learned Advocate for the petitioner submits that after he tendered the application to the Divisional Commissioner on ...December, 2021 (exact date not mentioned), there has been no hearing in the matter.

3. Having perused the scheme under section 39 of the Act, it is apparent that the Divisional Commissioner will have to call for a report from the concerned authority as set out in the first proviso, viz. Chief Executive Officer or Deputy Chief Executive Office, as the case may be.

A report has to be submitted within month. Reasonable opportunity of hearing has to be granted by the Chief Executive Officer or the Deputy Chief Executive Officer, as the case may, before formalizing the report. Thereafter, the second proviso indicates that the Commissioner would give a reasonable opportunity of being heard to all the stakeholders and then take decision on the report within one month.

4. In view of the above, this court could have dismissed this petition for non joinder of the parties. However, as we find that the ends of justice would be met with directions to the Divisional Commissioner to follow the scheme under section 39 of the Act with due deference to the procedure laid down by law, that **this petition is disposed off**. Let Respondent No.2 complete the whole procedure as prescribed under section 39 of the Act and deliver it's final order within 90 days from today.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan