

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

**WRIT PETITION NO.9729 OF 2023**

**SACHIN BALU RASAL  
VERSUS  
SACHIN VYANKATRAO RASAL AND OTHERS**

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Mr. S. S. Jawale, Advocate for Petitioner

Mr. P K. Lakhotiya, AGP for Respondent - State

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**CORAM : RAVINDRA V. GHUGE AND  
Y. G. KHOBRAGADE, JJ.**

**DATE : 09.08.2023**

**PER COURT :-**

1. The Petitioner is the Deputy Sarpanch who wants to unseat the Sarpanch on the basis of a resignation purportedly tendered by the Sarpanch, Respondent No.1 herein, on 02.03.2023. He has put forth prayer clauses (A) and (B) as under:-

“(A) By way of a Writ of Mandamus or any other Writ, this Hon’ble Court may kindly be pleased to direct the Respondent Authorities to take an appropriate decision on the Resignation dated 02.03.2023 tendered by the Respondent no.1 from the post of Sarpanch, Grampanchayat Lohara Khurd, Taluka Lohara, District: Osmanabad.

(B) By way of a Writ of Mandamus or any other Writ, this Hon’be Court may kindly be pleased to direct the Respondent Authorities to take an appropriate decision on the Resignation dated 02.03.2023 tendered by the

Respondent no.1 from the post of Sarpanch, Grampanchayat Lohara Khurd, Taluka Lohara, District: Osmanabad within prescribed time preferably within 1 week.”

2. Section 29 of the Maharashtra Village Panchayats Act, reads thus:-

***“29. Registration of member and disputes regarding resignation.***

*(1) Any member who is elected may resign his office by writing under his hand addressed to the Sarpanch and the Sarpanch may resign his office of member by writing under his hand addressed to the Chairman of the Panchayat Samiti. The resignation shall be delivered in the manner prescribed.*

*(2) On receipt of the resignation under sub-section (1), the Sarpanch or, as the case may be, the Chairman of the Panchayat Samiti shall [forward it within seven days to the Secretary] who shall place it before the meeting of the panchayat next following.*

*(3) If any member or the Sarpanch whose resignation is placed before the meeting of the panchayat wants to dispute genuineness of the resignation, he shall refer such dispute to the Collector within seven days from the date on which his resignation is placed before the meeting of the panchayat. On the receipt of dispute, the Collector shall decide it, as far as possible within fifteen days from the date of its receipt.*

*(4) The member or Sarpanch aggrieved by the decision of the Collector may within seven days from the date of receipt of the Collector's decision, appeal to the Commissioner who shall decide it, as far as possible, within fifteen days from the date of receipt of the appeal.*

*(5) The decision of the Collector, subject to the decision of the Commissioner in Appeal, shall be final.*

(6) *The resignation shall take effect, -*

*(a) where there is no dispute regarding the genuineness, after the expiry of seven days from the date on which it is placed before the meeting of the panchayat;*

*(b) where the dispute is referred to the Collector and no appeal is made to the Commissioner after the expiry of seven days from the date of rejection of the dispute by the Collector;*

*(c) where an appeal is made to the Commissioner, immediately after the appeal is rejected by the Commissioner.”*

3. We have perused the copy of the resignation along with the acknowledgment stamp of the Panchayat Samiti, Lohara, which is at page No.11. The same is a typed copy. Section 29(1) mandates that the Member should tender a resignation under his handwriting and address it to the Chairman of the Panchayat Samiti and the same has to be delivered in the manner prescribed. The resignation has to be tendered through hand delivery.

4. The Block Development Officer-1, who is said to be the Administrator of the Panchayat Samity, Lohara, has informed the Petitioner that there is a serious dispute with regard to the resignation letter of Respondent No.1. In the meanwhile, Respondent No.1 has suffered a ‘no confidence’ motion and has been ousted. Hence, the matter has not progressed.

5. The learned Advocate for the Petitioner informs us that Respondent No.1 succeeded before the District Collector, vide order dated 17.06.2023, as against the passing of the no confidence motion and he is now reinstated as the Sarpanch.

6. Reliance is placed on a judgment of this Court in the matter of ***Deepak Umakant Mathpati Vs. Latur Municipal Corporation and others - 2020 (6) All M.R. 1***, more particularly paragraph No.8, which reads as under:-

*“8. The Apex Court in a case of Moti Ram Vs. Param Dev and others (supra) has observed that, “resignation means the spontaneous relinquishment of one’s own right and in relation to an office, it connotes the act of giving up or relinquishing the office. It has been held that in the general juristic sense, in order to constitute a complete and operative resignation there must be the intention to give up or relinquish the office and the concomitant act of its relinquishment. If the act of relinquishment is of unilateral character, it comes into effect when such act indicating the intention to relinquish the office is communicated to the competent authority. The authority to whom the act of relinquishment is communicated is not required to take any action and the relinquishment takes effect from the date of such communication where the resignation is intended to operate in praesenti”.*

7. Under Section 29 of the Maharashtra Village Panchayat Act, the resignation letter of a Sarpanch or a Member is to be placed before the Panchayat Samiti and 7 days time is granted to the Sarpanch to dispute the genuineness of the resignation. If a dispute is raised, the matter is referred to the District Collector.

8. As such, the law laid down by the Hon'ble Supreme Court in *Deepak Umakant Mathpati Vs. Latur Municipal Corporation and others - 2020 (6) All M.R. 1 and Moti Ram Vs. Param Dev - AIR 1993 SC 1662*, would be distinguishable on facts as Section 29(2) requires the Chairman of the Panchayat Samiti to forward the resignation letter to the Secretary, to be kept in the meeting of the Panchayat Samiti, next following. Section 29(3) allows the person resigning, to dispute the genuineness of the resignation. Hence, the resignation would not operate instantaneously as is the law laid down in *Moti Ram* (supra).

9. Considering the above, this **petition is dismissed**. However, we grant liberty to the Petitioner to approach the competent authority in view of the Sarpanch having been reinstated in his position and due to which further proceedings under Section 29(3) have been kept in abeyance.

10. All contentions of all the litigants in the petition are kept open.

[ Y. G. KHOBRAGADE, J. ]

[ RAVINDRA V. GHUGE, J. ]

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