

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

WRIT PETITION NO. 14553 OF 2023

**POPAT SONYABAPU CHEMTE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Mr. N. B. Patekar, Advocate for Petitioner

Mr. Ashpak Patel, Advocate h/f Mr. A. P. Avhad, Advocate for
Respondent/Caveator

Mr. P. S. Patil, AGP for Resp/State

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

DATE : 28.11.2023

PER COURT :-

1. The Petitioner has been disqualified as a Sarpanch of Grampanchayat Khandke Taluka Nagar, District Ahmednagar, under Section 39(1) of the Maharashtra Village Panchayats Act, 1958.

2. The date of the judgment, as per the digital signature, is 11.10.2023. The Petitioner's statutory appeal is pending before Respondent No.1, which has been lodged on 09.11.2023 after the Petitioner received the copy of the order on 03.11.2023. The

grievance is that Respondent No.1 is not taking up the interim application filed by the Petitioner and the election to fill in the post which has fallen vacant on account of the disqualification of the Petitioner, is scheduled tomorrow at 10.00 a.m.

3. The challenge to the order of the Divisional Commissioner would lie before the first Respondent. If it is assailed by filing a Writ Petition directly in the High Court, subject to the maintainability of the Petition, the same would lie before the learned Single Judge.

4. The Petitioner seeks directions to Respondent No.1 to decide the stay application expeditiously and further prays that the election be stayed.

5. Without discussing the reasons for the disqualification and the merits of the contentions of the petition, we do not deem it appropriate to interject at this stage since the appeal is pending, before Respondent No.1. We would, however, direct that if the election is held tomorrow, the result of the election would be subject to the decision in the disqualification proceedings against the Petitioner.

6. In view of the above, **this Petition is disposed off** with a direction to Respondent No.1 to decide the Stay Application filed by the Petitioner, on or before 08.12.2023. Thereafter, the Appeal be decided on or before 05.01.2024. All contentions of the parties are kept open.

7. The learned Advocate for the Caveator who claims to be the original complainant, is present before the Court. However, in view of the disposal of this Petition, we need not entertain the request for leave to intervention.

[Y. G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]

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