

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

**WRIT PETITION NO. 564 OF 2023**

Kiran Sachin Nagrare \_\_ Vs. \_\_ The State of Maharashtra and ors

Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

Mr. Amit Kinkhede, Advocate for petitioner  
Mr. N.R.Patil, AGP for respondent nos. 1, 2, 4 & 5  
Mr. S.B.Walekar, Advocate for respondent no.7

**CORAM : AVINASH G. GHAROTE, J.**  
**DATE : 16/02/2023**

Heard Mr. Kinkhede, learned counsel for the petitioner, Mr. Patil, learned AGP for the respondent/State and Mr. Walekar, learned counsel for respondent no.7.

2] Mr. Patil, learned AGP for the respondent/State, on instructions, made a statement that since there were allegations against the incumbent The Additional Divisional Commissioner, Nagpur, and since the said person on account of personal reasons leave, the matter can be heard by the in-charge Additional Commissioner, who has been given her charge on 20.01.2023, when the matter is listed.

3] Mr. Kinkhede, learned counsel for the petitioner is not agreeable to such a proposition and contends that though the disqualification of the petitioner has been challenged before the learned

Divisional Commissioner in appeal, pendency of that appeal cannot come in the way of this Court in entertaining the petition directly.

4] In support of his contention, Mr. Kinkhede, learned counsel for the petitioner, relies upon **Allana Cold Storage Ltd. Vrs. Income Tax Officer and others, 2006 SCC Online Bom 1440** (para 7), to contend that even when an alternate remedy is resorted to, the writ jurisdiction is not to be exercised, but that is a rule of self-limitation, and therefore, that would not prevent the Court from entertaining the writ petition. He also relies upon **Sk. Salim vrs. The State of West Bengal, (1975) 1 SCC 653**, to contend that the word 'forthwith' has to be considered as 'within a reasonable time', provided that no prejudice is caused. He also relies upon **Babubhai Muljibhai Patel vrs. Nandlal Khodidas Barot and ors, (1974) 2 SCC 706** (para 9), to contend that the petition could be directly entertained.

5] Mr. Patil, learned AGP tendered across the bar an affidavit that, the respondent No.6 is not sitting idle, but has been discharging her official functions including the functions of deciding appeals. It is stated that the respondent no.6 has also the charge of appeals arising from departmental enquiry under the Discipline and Appeal Rules, 1964 of Zilla Parishad; Appeals under the Maharashtra Village Panchayat Act; Appeals under the Maharashtra Land Revenue Code and also matter

arising from Mining, Land Records, as well as Arbitration under the National Highway Act, apart from the administrative functions on account of the post which she holds. The affidavit further states that during the last 10 months, she has decided more than 450 matters in appellate jurisdiction, out of which more than 150 matters were appeals under the Maharashtra Gram Panchayat Act. This would clearly indicate that the plea which is sought to be raised by the petitioner by making allegations against the respondent no.6 is clearly not justified.

6] The claim for Writ Petition being an alternate remedy and its entertainability by this Court based upon the aforesaid judgment cannot be considered as the petitioner has already availed of the statutory remedy of appeal under Section 16 of the Maharashtra Village Panchayat Act. Though the appeals have to be decided as expeditiously as possible, a mere delay in deciding the appeal does not give any cause to the petitioner to start making allegation against the respondent no.6. In that view of the matter, I am not inclined to entertain the petition. The same is dismissed. No costs.

**JUDGE**

*Rvjalit*

Digitally sign byRAJESH  
VASANTRAO JALIT  
Location:  
Signing Date:21.02.2023 12:41