

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1539 OF 2023

(Gopal Ganpatrao Mahalle Vs. State of Maharashtra & Ors.)

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

Court's or Judge's orders.

Shri Ram Karode, Advocate for the petitioner.
Ms. N.P. Mehta, Assistant Government Pleader for
respondent Nos. 1, 3 and 4/ State.

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CORAM : A.S. CHANDURKAR AND
M.W. CHANDWANI, JJ.
MARCH 13, 2023.

The petitioner who came to be elected as Sarpanch of Gram Panchayat – Alegaon, Tahsil – Patur, District – Akola on 9/2/2021 has been removed under Section 39(1) of the Maharashtra Village Panchayats Act, 1959 (for short “the said Act”) by order dated 20/2/2023 passed by the Divisional Commissioner, Amravati. Against the said adjudication, the petitioner has preferred an appeal under Section 39(3) of the said Act. The said appeal having been filed on 23/2/2023 along with an application for grant of stay, the petitioner seeks expeditious consideration of the said proceedings before the State Government.

2] The learned Counsel for the petitioner submits that the order of removal passed under Section 39(1) of the said Act is contrary to the provisions of the said Act and its effect and operation ought to be stayed during pendency of the proceedings before the State Government.

3] On hearing the learned Counsel for the petitioner, we find that interest of justice would be served by passing the following order :

ORDER

i] Respondent No.1 – State Government through the designated Officer/ Hon'ble Minister shall consider and take a decision on the petitioner's stay application within a period of two weeks from today. Such decision be taken on its own merits and in accordance with law. It is open for the Appellate Authority to consider the petitioner's request for expeditious decision in the appeal itself on its own merits.

4] Since the stay application is pending before the State Government, we are not inclined to examine the prayer for grant of ad-interim stay.

5] Needless to state that any further steps taken pursuant to the removal of the petitioner would be subject to the final outcome of the proceedings pending before the State Government.

6] All points on merits are kept open. The Writ Petition is disposed of.

(JUDGE)

(JUDGE)

Sumit