

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
Writ Petition No.1497 of 2023

Mangesh S/o Shamrao Tayade
Versus
The Divisional Commissioner, Amravati Division,
and others

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

Shri S.V. Sohoni, Advocate for Petitioner.

Shri A.A. Madiwale, Assistant Government Pleader for
Respondent No.1.

CORAM : A.S. CHANDURKAR AND M.W. CHANDWANI, JJ.
DATE : 10th MARCH, 2023

1. The petitioner who was elected as Sarpanch of Grampanchayat Wadegaon faces proceedings under Section 39(1) of the Maharashtra Village Panchayats Act, 1959 (for short, "the said Act") that had been initiated by the respondent No.4. Initially, the order passed under Section 39(1) of the said Act on 30-9-2022 came to be quashed by this Court in Writ Petition No.595 of 2023 on account of procedural irregularities. After remand, the Divisional Commissioner on 2-3-2023 directed the Chief Executive Officer to conduct an inquiry and submit his report in terms of the proviso to Section 39(1) of the said Act. Thereafter on 3-3-2023, the Chief Executive Officer issued a communication to the Block Development Officer directing him to ensure that the replies are filed by the parties and sufficient opportunity is given to them in that regard. The final hearing of the proceedings is scheduled today at 12.00 noon.

2. It is submitted by the learned counsel for the petitioner that it was not open for the Chief Executive Officer to require the Block Development Officer to instruct the parties to file their replies and

submit their final arguments. This has to be done by the Divisional Commissioner himself, as the Chief Executive Officer is only required to hold an inquiry as per the proviso to Section 39(1) of the said Act. On this count, it is urged that the impugned communication dated 2-3-2023 is liable to be quashed.

3. We find from the documents on record that after remand, the Divisional Commissioner has directed the Chief Executive Officer to conduct an inquiry and submit his report within thirty days. On such report being submitted, the Chief Executive Officer has directed the Block Development Officer to ensure that the pleadings of the parties are complete and the written notes of arguments are also filed, as the final hearing of the proceedings are scheduled before the Divisional Commissioner on 10-3-2023. We find that insofar as the conduct of inquiry by the Chief Executive Officer is concerned, the same is in accordance with the proviso to Section 39(1) of the said Act. As regards the communication dated 3-3-2023 issued by the Chief Executive Officer, we may observe that the role of the Chief Executive Officer is restricted to the conduct of inquiry and all other directions given to file the written notes of arguments and complete the pleadings are in the context of hearing before the Divisional Commissioner.

4. We are therefore not inclined to interfere in the impugned communications. The Writ Petition is dismissed with liberty to the petitioner to raise all permissible challenges in case he is found to be disqualified under Section 39(1) of the said Act and by keeping the points raised on merits open. No costs.