



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

WRIT PETITION NO.4705 OF 2023

[Sau. Aarti w/o Khushal Tavar .vs. Chief Executive Officer, Zilla Parishad, Washim and others]

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

Court's or Judge's orders

Shri Amit V. Band, Advocate for the petitioner,
Shri A.B. Mirza, Advocate for respondent no.4,
Shri D.P. Thakre, Additional Govt. Pleader for respondent no.7.
.....

CORAM : ANIL S. KILOR, J.

DATE : 11.09.2023.

1. After the direction issued by the Division Bench of this court for making fresh enquiry by the Chief Executive Officer while setting aside the enquiry made under Section 39 of the Maharashtra Village Panchayat Act, 1958, the enquiry was conducted by the Deputy Chief Executive Officer and submitted the report to the Chief Executive Officer, who further submitted it to the Divisional Commissioner in a proceeding filed under Section 39 (1) of the Maharashtra Village Panchayat Act for removal of the petitioner as a member of the Gram Panchayat, Giroli, Tahsil-Manora, District-Washim.

2. The petitioner thereupon moved an application for calling a fresh report as the Deputy Chief Executive Officer has not empowered to make enquiry and submit the report. This contention of the petitioner came to be rejected by the Divisional Commissioner vide order dated 12.07.2023 and hence this petition.

3. As the point of validity of report of the Deputy Chief Executive Officer or the Chief Executive Officer can be raised at the time of final hearing of the application filed under Section 39 (1) of the Act of 1958, I do not find any reason to exercise any discretion under Articles 226 and 227 of the Constitution of India.

4. In that view of the matter, the writ petition is disposed of with a direction to the Divisional Commissioner to decide the application filed by the respondent no.4 under Section 39 (1) of the Act of 1958 on merit and while considering the said application on merit, the Divisional Commissioner shall decide the objection to the report a fresh, after hearing both the parties.

5. All points raised in this writ petition are kept open.

(ANIL S. KILOR, J.)