

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

WRIT PETITION NO.5236 OF 2023

Kondba Hausaji Ingole .Vs. State of Mah. Through Additional Commissioner,
Amravati and others

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

Court's or Judge's Order

Shri D.G. Gawande, Advocate for the petitioner.
Ms H.N. Jaipurkar, A.G.P. for the respondent/State.
Shri K.S. Narwade, Advocate for the respondent No.4.

CORAM : ANIL S. KILOR, J.

DATED : 21/08/2023

1. Leave to add Returning Officer as party to the respondent No.5.
2. Amendment be carried out forthwith.
3. The learned A.G.P. waives service for the newly added respondent No.5 – Returning Officer.
4. In the present matter, the grievance is raised against the stay granted to the disqualification of the respondent No.4. The respondent No.4 was disqualified under Section 40(1)(b) of the Village Panchayat Act, 1959 on a complaint made by the petitioner alleging that the respondent No.4 was continuously absent for six consecutive monthly meeting. It is informed that the appeal was heard by the Additional Commissioner and despite the

same without deciding the same finally stay has been granted with an intention to facilitate the respondent No.4 to participate the election of Panchayat which is scheduled for today.

5. Shri Narwade, learned counsel for the respondent No.4 is disputing the same and pointed out that, after hearing the petitioner, the stay was granted.

6. Considering the fact that, the appeal is pending and pleading in the appeal are completed, the same can be decided within two or three weeks, I do not want to go into the merits of the matter particularly considering the fact that today is the election of Sarpanch which is scheduled at 2.00 p.m .

7. In the circumstances, it would sub-serve the justice if the result of the election of Sarpanch is directed not to be declared till the decision on merit by the Additional Commissioner with further directions to the Additional Commissioner to decide the appeal within two weeks.

8. Accordingly, the writ petition is **disposed of** with direction to the Additional Commissioner to decide the appeal within two weeks after giving sufficient opportunity to both the parties.

9. The respondent No.5 is directed not to declare the result of the election scheduled to be held today at 02.00 p.m. for the post of Sarpanch of Village Panchayat Bitargaon (Bk.) till the decision of the appeal pending before the Additional Commissioner.

10. It is further made clear that the result of the election shall be subject to the result of the appeal.

Authenticated copy is granted.

JUDGE