



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

25 WRIT PETITION NO. 10722 OF 2024

SAGAR DNYANDEV MUTHE
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

Advocate for the Petitioner : Mr. A. B. Kale, h/f Mr. Yash Sanjay Pareek.

AGP for Respondent/State : Mr. K. B. Jadhavar.

Adv. for Respdt. No.5 : Mr. V. D. Hon, Senior Counsel, i/b Mr. Vivek V. Tarde.

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CORAM : **KISHORE C. SANT, J.**

DATE : 30th September, 2024.

P.C.:

The petition is filed against the order dated 18th September, 2024 refusing stay by the learned Additional Divisional Commissioner in appeal arising out of disqualification proceeding of Sarpanch on the ground of encroachment on Government land. It is submitted that if stay is not granted, there would be no one to look after the affairs of Grampanchayat. It is therefore, prayed for stay to the effect and execution of order dated 30th August, 2024 passed by learned Collector.

2 The learned AGP waives notice on behalf of respondent Nos.1 to 3. Mr. V. V. Tarde, learned counsel waives notice on behalf of respondent No.5. Looking to the nature of matter, no notice is required to respondent No.4.

3 The learned Senior Counsel for respondent No.5 vehemently opposed the petition. He submits that the Commissioner has rightly passed the order by exercising the discretion vested in it. Even on merit, no case is made out to call for interference.

4 The learned AGP supports the arguments of the learned Senior Counsel for respondent No.5.

5 Considering that since 30th August, 2024 there is no stay, there is no propriety in granting stay. There is specific refusal by the learned Commissioner. There is apprehension that in the meantime, the authorities may declare the post as vacant and may take steps to fill up the post. The care can be taken of this apprehension by directing the authorities to not to take steps to fill up the post of Sarpanch till the appeal is decided.

6 The petition can be disposed of by giving suitable directions. Hence, following the order:

ORDER

- I. The appeal pending before the learned Commissioner be decided within four weeks from today.

- II. Till the decision of the appeal, the authorities shall not take steps to fill up the post of Sarpanch of village Muthewadgaon, Taluka Shrirampur, District Ahmednagar.
- III. The parties to cooperate in disposal of the appeal within four weeks from today.
- IV. The writ petition is disposed of.

[KISHORE C. SANT, J.]

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