

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1706 of 2024

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Dynanaraj Kundalik Dhumal	... Petitioner
V/s.	
The State of Maharashtra & Ors.	... Respondents

**WITH
INTERIM APPLICATION NO.1602 OF 2024
IN
WRIT PETITION NO.1706 of 2024**

Ujwala Dattatraya Pardeshi	... Applicant
<i>In the matter between</i>	
Dynanaraj Kundalik Dhumal	... Petitioner
V/s.	
The State of Maharashtra & Ors.	... Respondents

Mr. C.G. Gavnekar, Senior Advocate with Mr. Sohel Mujawar, Mr. Ramdas Hake Patil for the petitioner.

Mr. Surel S. Shah i/by Mr. Manoj A. Patil for the applicant.

Mr. P. G. Sawant, AGP for the State/respondent.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 14, 2024

P.C.:

1. Heard both the sides. Prima facie, it appears that the complaint was filed inter alia alleging that the subject of disbursement of amount in favour of the contractor was taken as

urgent subject at the instance of respondent No.7. Such insistence on the part of respondent No.7 is in breach of second proviso to section 38(2)(ia) of the Maharashtra Village Panchayats Act, 1959, which reads as under:

“38. Executive power of *Panchayat* Functions of *Sarpanch* and *Upa-Sarpanchas*.-

(1)

(2) Without prejudice to the generality of the foregoing provisions

(i-a) in respect of the panchayat to which the Sarpanch is directly elected under section 30A-1A, the Sarpanch shall also exercise the following powers, functions and duties,—

(a) finalise the agenda of panchayat meetings:

.....

Provided further that, no ad-hoc financial business shall be transacted unless it forms a part of the circulated agenda.”

2. The proviso specifically prohibits transaction of ad-hoc financial business unless it forms part of circulated agenda. Undisputed fact in the case is that the subject of disbursement of bill in favour of the contractor was not placed in the circulated agenda. Hence, act of respondent No.7 prima facie appears to be in breach of second proviso. Hence, arguable questions are raised.

3. Hence, **Rule.**

4. The ad-interim relief granted earlier to continue during the pendency of the writ petition.

5. Liberty to the respondent No.7 to apply for final hearing.
6. It is made clear that the stay granted by this Court shall not be construed to mean restraint against respondent No.7 from acting as member of Gram Panchayat.
7. It is clarified that respondent No.7 is permitted to work as member of Gram Panchayat. It is also made clear that respondent No.7 shall not be eligible for contesting election of Sarpanch for period stated in the order passed by the First Authority.
8. The election of Sarpanch scheduled to be held on 16th February 2024 shall be subject to decision of present writ petition.

(AMIT BORKAR, J.)