

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13554 OF 2024

Sadhana Santosh Datala

...Petitioner

Versus

Divisional Commissioner Konkan Division & Ors

...Respondents

Mr. Anil Dsouza, a/w Yogesh Rawool, Ernest Tuscano & Mark D'britto, i/b S.S. Redekar, for the Petitioner.

Mr. A.I. Patel, Addl.GP, a/w Y.D. Patil, AGP, for Respondent-State.

CORAM : B. P. COLABAWALLA &

SOMASEKHAR SUNDARESAN, JJ.

DATE : OCTOBER 09, 2024

PC :

1. The above Writ Petition is filed seeking a direction to Respondent No.4 to decide the Petitioner's Appeal alongwith the Stay Application dated 29th August, 2024 as expeditiously as possible. It is also prayed that a stay be granted of the impugned order dated 12th August, 2024 passed by Respondent No.1.

2. The facts of the present matter are in a very narrow compass. In October 2022, the Petitioner was elected as a Sarpanch of Village Aalonde, Tal. Vikramagad, Dist. Palghar in the "Scheduled Tribe Women" category. Thereafter, due to certain infractions, and which are

not admitted by the Petitioner, Respondent No.2, on 7th September, 2023 issued a show cause notice to the Petitioner under Section 39(1) of the Maharashtra Village Panchayat Act, 1959 (for short “*the said Act*”). This show cause notice called upon the Petitioner to show cause as to why she should not be removed from the post of the Sarpanch.

3. On 18th September, 2023, the Petitioner gave a reply to the said show cause notice. Thereafter, on 13th February, 2024 Respondent No.2 forwarded a recommendation to Respondent No.1 recommending action against the Petitioner under Section 39(1) of the said Act. After the aforesaid recommendation was forwarded to Respondent No.1, Respondent No.1 also gave a personal hearing (through V.C.) to the Petitioner on 25th July, 2024. Thereafter, on 12th August, 2024 Respondent No.1 accepted the said recommendation and passed an order under Section 39(1) and removed the Petitioner from the post of Sarpanch.

4. Being aggrieved by this order, the Petitioner preferred an Appeal under Section 39(3) before the Hon’ble Minister for Rural Development, State of Maharashtra, alongwith an Application for stay of the impugned order. It is the grievance of the Petitioner that till date neither the Appeal nor the Stay Application has been heard and in the

meanwhile, on 25th September, 2024 a letter is issued by the Block Development Officer to the Gram Vikas Adhikari stating that the charge of the office of Sarpanch be handed over to the Deputy Sarpanch until the election for the office of the Sarpanch are conducted. Being aggrieved by this action the Petitioner has approached this Court in writ jurisdiction *inter alia* praying that the Appeal and Stay Application filed by the Petitioner be heard by Respondent No.4 as expeditiously as possible.

5. The learned counsel appearing on behalf of the Petitioner submitted that the Petitioner has filed a Stay Application seeking a stay of the impugned order dated 12th August, 2024. This was filed as far back as on 29th August, 2024. Despite this no decision has been taken on the Stay Application. He, therefore, submitted that Respondent No.4 be directed to at least hear the Stay Application as expeditiously as possible and in the meanwhile to stay the implementation not only of the impugned order but also of the letter dated 25th September, 2024 issued by the Block Development Officer to the Gram Vikas Adhikari.

6. On the other hand, the Learned AGP appearing on behalf of the Respondents, stated that he is unaware whether the letter issued by the Block Development Officer to the Gram Vikas Adhikari dated 25th

September, 2024 is implemented or otherwise. He submitted that in the event this Court is inclined to grant any stay, the aforesaid aspect should be clarified.

7. Having heard the Learned Advocate appearing on behalf of the Petitioner as well as the Learned AGP, we are of the view that we can dispose of the above Writ Petition at the admission stage by passing the following directions:

ORDER

- a) Respondent No.4 is requested to hear and decide the Stay Application filed by the Petitioner as expeditiously as possible and in any event within a period of two weeks from today.
- b) Respondent No.4 is also requested to hear and decide the Appeal filed by the Petitioner as expeditiously as possible and in any event within a period of eight weeks from today.
- c) In the meanwhile, and without prejudice to the rights

and contentions of the parties, it is directed that until the Stay Application is heard, the letter dated 25th September, 2024 issued by the Block Development Officer to the Gram Vikas Adhikari shall not be implemented, if not already done so.

d) The Writ Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

8. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]

[B. P. COLABAWALLA, J.]