

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 18793 OF 2024.

Sudhakar Yashwant Warule

...Petitioner.

Versus

The Gramsevak, Group Gram Panchayat
Rasegaon, Deharewadi, Tal. Dindori, Dist. Nashik
and Others.

...Respondents.

Mr. Sachin Gite for Petitioner.

Mr. Pratik Rahade for Respondent No.11.

Smt. M. P. Thakur, AGP for Respondent-State

Coram : Sharmila U. Deshmukh, J.

Date : December 14, 2024.

P. C. :

1. Not on Board. Upon mentioning, taken on Production Board.
2. The matter was moved urgently for ad-interim relief as the elections to the post of Upa-Sarpanch are scheduled on 16th December, 2024 following the alleged resignation of the Petitioner.
3. Mr. Gite, learned counsel appearing for Petitioner would submit that forged and fabricated resignation letter of petitioner was tendered to the Sarpanch pursuant to which in the meeting held on 29th November, 2023, the resolution came to be passed accepting the resignation though petitioner had sent whatsapp messages to the Sarpanch and Gram Sevak pointing out that he was admitted to the

hospital and he has not given any resignation. Pointing out to minutes of the meeting, he submits that the fact about his inability to attend the meeting due to his ill-health has been noted in the minutes of meeting. He submits that both the authorities have not considered the submission in proper perspective and has accepted the resignation as being validly submitted. He would submit that the medical evidence on record would indicate that he was admitted to the hospital on the date of meeting.

4. *Per contra* learned counsel appearing for Respondent No.11, who has submitted his nomination for the bye-election of Upa-Sarpanch submits that there are concurrent findings and that whatsapp messages were sent at 12.35 p.m. after the meeting was held. He would further submit that it is recorded in the order that no medical records were submitted.

5. The contention of Petitioner is that he has not submitted any resignation letter to the Sarpanch. The Bombay Village Panchayats (Delivery of Resignation and Notice of Resignation) Rules, 1965 provides that the notice of resignation of office of Upa-Sarpanch shall be delivered by the Upa-Sarpanch to the Sarpanch, which shall be in Form I by RPAD or personally or through person authorised by the person resigning. As it was disputed that the resignation had not been submitted by the Petitioner, there should be some finding on the

manner of service of notice. *Prima facie* from the record, there is no clarity on the manner of service.

6. The notice of the meeting with agenda to be held on 29th November, 2023 is stated to have been sent on whatsapp on 21st November, 2023 and on email on 27th November, 2023. The contention of the Petitioner that he was hospitalised is substantiated by the medical records are produced before this Court. The whatsapp messages declining that he has tendered his resignation are sent on the day of the meeting though later. It appears to have been a consistent stand of the Petitioner that he has not tendered any resignation. *Prima facie* considering that the Petitioner has disputed that he has not submitted the resignation, the matter requires consideration. In event the elections are held, the Petition will be rendered infructuous.

7. In light of the above, list the matter on **3rd January, 2025**. Affidavit-in-reply to be filed before the next date with an advance copy to the other side. Till the next date, the election of Upa-Sarpanch is stayed. Let the petitioner serve notice to all the other Respondents within a period of one week from today.

8. All concerned to act on authenticated copy of the order.

[Sharmila U. Deshmukh, J.]