



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

WRIT PETITION NO. 5033 OF 2024

(Sau. Priti Manoj Bundile vs. The Collector, Amravati and others)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr.N.A.Gawande, Advocate for the petitioner.

Mr.N.S.Rao, Assistant Government Pleader for the respondent
Nos.1 to 3.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE : AUGUST 28, 2024

A prayer is made by Mr.Gawande, learned Counsel
appearing for the petitioner for deletion of respondent No.6.

2) The prayer is allowed. Amendment to be carried
out forthwith.

3) We have heard learned Counsel for the petitioner
and learned Assistant Government Pleader for respondent Nos.1
to 3.

4) It is informed that after the offence was registered
against the petitioner vide C.R.No.202/2023 on 26/09/2023
punishable under Sections 7, 7(A) and 12 of the Prevention of
Corruption Act, 1988, the petitioner was granted pre-arrest bail
on 17/10/2023 in Bail Application No.1330/2023 by the learned
Additional Sessions Judge, Amravati.

5) It is brought to our notice that subsequent thereto,
based on the registration of the aforesaid offence, an order came
to be passed on 09/01/2024, thereby deciding to initiate
proceedings for disqualification of the petitioner for the post of

Sarpanch and accordingly, consequential order was passed on 07/08/2024 in exercise of powers under Section 39(1) of the Maharashtra Village Panchayat Act, 1959.

6) The petitioner claims that an appeal is preferred against such order of disqualification, which is pending with the Government since 21/08/2024, in which a prayer for stay of the election is made. However, the said prayer is not yet decided. It is claimed that the election of the Sarpanch is scheduled on 29/08/2024.

7) On merits, it is urged that the issue is squarely covered by Single Bench judgment in **Writ Petition No.899/2023** in the case of **Rupali Dinesh Kale vs. The State of Maharashtra and others** decided on **27/07/2023**. In this background, it is claimed that till the pending appeal is decided by the State Government, the election of the Sarpanch be stayed.

8) A prayer is opposed by the Assistant Government Pleader on the ground that the petitioner's husband was caught red-handed while accepting bribe and as such, the petitioner is impleaded as an accused in the said crime.

9) We have considered the rival claims.

10) In the judgment passed in Writ Petition No.899/2023, the learned Single Judge has made following observations :-

“10. It is thus apparent that on the mere allegation of demand of illegal gratification, which demand is not apparent from any action or document produced on record or from the first panchnama conducted by the Anti Corruption Bureau as is indicated by the communication

dated 20.6.2023, the petitioner who was a duly elected Sarpanch could not have been visited with such drastic action. The impugned order of the Divisional Commissioner dated 28.10.2022 (pg.48) merely disqualifies the petitioner on account of the FIR being registered against her on the demand being verified, which, as indicated above, even according to the Anti Corruption Bureau, was not so and also on account of the incarceration of the petitioner for 14 days in pursuance to the complaint, which has been upheld by the respondent no.1 on the same ground (pg.66). That being the position, the impugned orders which disqualify the petitioner merely on the basis of an allegation, as indicated above, cannot be sustained and are hereby quashed and set aside.”

11) We have perused the factual matrix in the said case, which is similar to the one in the present case. As such, there appears substance in the submissions of the learned Counsel for the petitioner. The petitioner has never demanded money, as could be inferred from the observations from the bail application.

12) In that view of the matter, we deem it appropriate to dispose of the petition by directing that the election for the post of Sarpanch be deferred till the decision of the appeal pending before the State Government.

13) We direct the State Government to decide the pending appeal as expeditiously as possible and in any case within three months from the date of production of this order.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)