



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

Writ Petition (WP) No. 4746 of 2024

Sunita Santosh Rathod

Versus

Hon'ble Minister, Rural Development Department Mantralaya, Mumbai
and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri R.L.Khapre, Senior Advocate assisted by
Shri P.A.Deshpande, Advocate for the petitioner.
Shri Alap Phalsikar, AGP for the respondent no.7.
Shri Amit Band, Advocate for the respondent no.12.

CORAM : N.R.BORKAR, J.

DATED : 19th AUGUST, 2024.

Heard.

2. The petitioner was elected as a Member and then Sarpanch of Gram Panchayat Kinhiraja, Tq. Malegaon, District Washim. Alleging misconduct in discharge of duty as a Sarpanch, the complaint was

lodged against the petitioner. Pursuant to directions issued by the Chief Executive Officer, Zilla Parishad, Washim, the Block Development Officer conducted the inquiry. The petitioner was found to be guilty of misconduct and thus Chief Executive Officer forwarded the report to the Divisional Commissioner for taking the action in terms of Section 39 of the Maharashtra Village Panchayats Act, 1959. The Commissioner directed the Chief Executive Officer to conduct the inquiry in relation to the alleged misconduct. Accordingly, the Chief Executive Officer, conducted the inquiry and submitted the report to the Commissioner. By order dated 27th February, 2024, the Commissioner ordered the removal of the petitioner from the post of Sarpanch and Member of the Gram Panchayat. By the order impugned the appeal filed by the petitioner came to be dismissed.

3. I have heard learned Senior Counsel for the petitioner, learned Assistant Government Pleader and learned counsel for the contesting respondent.

4. Learned Senior Counsel for the petitioner submits that in the present case the Chief Executive Officer has acted as a complainant as well as inquiry officer. It is submitted that the inquiry conducted by the Chief Executive Officer was farce as on the basis of report of Block Development Officer already opinion was formed by him that the petitioner was liable to be removed. It is submitted that this Court in Jagdish Mannalalji Sancheriya Vs. State of Maharashtra and others reported in (2023) 1 Mah.L.J. 196, has held that the same is not permissible.

6. Arguable point is raised. Hence, **Rule.**

7. However, considering the nature of misconduct for which the petitioner is found to be guilty, I am not inclined to stay the removal of the petitioner from the post of Sarpanch. The order of

Commissioner to the extent of removal of the petitioner as a Member of the Gram Panchayat shall remain stayed during the pendency of the petition.

8. Hearing of the petition is expedited.

[N.R.BORKAR, J.]