



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5438 OF 2024

Asif S/o. Hafiz Sheikh
Age : 29 years, Occupation : Service
R/o. Bharat Nagar, Ramrai Road, Waluj,
Tq. Gangapur, Dist. Aurangabad.

... PETITIONER

...VERSUS...

1. The State of Maharashtra
Through its Secretary to
Rural Development Dept.
Mantralaya, Mumbai
2. The Chief Executive Officer
Zilla Parishad, Aurangabad
3. The Block Development Officer,
Panchayat Samiti, Gangapur,
Tq. Gangapur, Dist. Aurangabad.
4. The Sarpanch,
Waluj Village Panchayat
Tq. Gangapur, Dist. Aurangabad.
5. The Gramsevak/Village Development Officer,
Waluj Village Panchayat,
Tq. Gangapur, Dist. Aurangabad.

... RESPONDENTS

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- Mr. S. G. Dodya, Advocate for the Petitioner
 - Mr. B. B. Bhise, AGP for Respondent No. 1
 - Ms. J. N. Gite, Advocate for Respondent Nos. 2 and 3
 - Mr. M. V. Navandar, Advocate for Respondent No. 4
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CORAM : ROHIT W. JOSHI, J.

DATE : AUGUST 01, 2025

ORAL JUDGMENT :

1. The petitioner was working with respondent no. 4/Village Panchayat on the post of computer operator on daily wage basis. On 31.08.2020, the respondent/Village Panchayat has passed a resolution to

appoint petitioner and five other persons by including their names in Form 21. According to the learned counsel for the petitioner, names of permanent employees are recorded in Form 21. He contends that pursuant to the resolution dated 31.08.2020, the petitioner was working with the respondent/Village Panchayat as a permanent employee. The services of the petitioner have been terminated vide order dated 18.01.2022, issued under the signature of Sarpanch and Secretary of the Village Panchayat. The termination order refers to a monthly meeting of the Panchayat held on 07.01.2022. It will be pertinent to state that the Sarpanch of the Village Panchayat has issued show cause notice dated 22.12.2021, alleging that the petitioner was found to be engaged in election campaign and that on being confronted about such conduct, he had behaved arrogantly with the Sarpanch. The petitioner submitted reply to the said show cause notice dated 04.01.2022, denying the allegations.

2. As stated above, the services of the petitioner have been terminated vide order dated 18.01.2022. Perusal of the order of termination will demonstrate that the services have been terminated on the ground that the petitioner had arrogant conversation with the Sarpanch; he was not collecting the taxes; he used to remain absent without permission; and also on the ground of insubordination. The petitioner initially approached this court challenging the order of

termination vide writ petition no. 8119 of 2022, which was disposed of vide order 05.08.2022, granting liberty to the petitioner to avail alternate remedy in order to challenge the termination. The petitioner thereafter filed appeal before the Block Development Officer as per Section 61 of the Maharashtra Village Panchayat Act. The said appeal came to be disposed of vide order dated 31.07.2023. Respondent No. 4 - Village Panchayat was directed to consider candidature of the petitioner while granting appointment to any other person in the Village Panchayat. Aggrieved by the said order, the petitioner filed a revision application before the Chief Executive Officer of Zilla Parishad. The Chief Executive Officer directed the Village Panchayat to take appropriate decision regarding employment of the petitioner in the monthly meeting of the Panchayat and intimate the decision taken to the Block Development Officer.

3. Perusal of both orders will demonstrate that both authorities have not dealt with the merits of the matter at all. The contentions raised by the petitioner are not dealt with, and both the proceedings are summarily disposed of without consideration of rival contentions on merits.

4. The learned counsel for the respondent/Village Panchayat states that the post on which the petitioner was working, is already filled up by appointing some other person. The learned counsel for the

petitioner has produced extract of monthly meeting of Village Panchayat held on 28.02.2024 in support of his contention. However, perusal of the minutes will only demonstrate that it is stated that at present there is no vacancy. It does not mean that the post on which the petitioner was working is filled up by granting appointment to any other person. In view of the fact that statutory appeal filed by the petitioner has not been dealt with in proper manner by taking into consideration the contentions raised by him, the matter needs to be remanded for fresh adjudication. The learned counsel for the petitioner has placed reliance on the judgment of this court in the matter of **Ashok Govindrao Sardar Vs. Chief Executive Officer, Amaravati¹** and requests that the authorities should consider ratio of the said judgment. Hence the following order:

ORDER

- (i) The writ petition is **partly allowed**.
- (ii) The order passed in Appeal bearing outward no. 2852 dated 01.08.2023 by respondent no. 3 and order passed by respondent no. 2 in revision bearing outward no. ZPAU/4 Panchayat/Kavi-499/2023 dated 03.10.2023 are quashed and set aside.
- (iii) The learned Block Development Officer shall take into consideration the law laid down in judgment in the matter of **Ashok Govindrao Sardar (Supra)** while deciding the appeal.

¹ 2016 (3) Mh.L.J. 292
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(iv) The parties shall appear before the Block Development Officer on 18.08.2025 and parties to note that separate notice will not be issued in the matter.

(v) The Block Development Officer is directed to decide the appeal as expeditiously as possible in any case before the 30.09.2025.

(vi) The Chief Executive Officer should also take into account the conduct of the Village Panchayat in the matter while deciding revision.

5. This court has not decided the controversy on merits. All rival contentions are kept open.

[ROHIT W. JOSHI]
JUDGE