



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4731 OF 2024

Ramesh Dadarao Chavan

VERSUS

The Additional Divisional Commissioner 2 And Others

...

Mr. S. R. Kedar, Advocate for the Petitioner

Mr. B. B. Bhise, AGP for Respondents-State

Mr. R. V. Gore, Advocate for Respondent no.4

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CORAM : ROHIT W. JOSHI, J.

DATED : 17TH JUNE, 2025

PER COURT :-

. Petitioner has contested election for the post of Up-Sarpanch of Gram Panchayat Jategaon, Tq. Georai, Dist. Beed. Elections were held on 28th December, 2025. The petitioner was elected as Up-Sarpanch in the said meeting. The petitioner has secured 9 votes as against 4 votes received by the respondent no.4.

2. The respondent no.4 had raised a dispute with respect to the election of petitioner as Up-Sarpanch on the ground that the proceedings were videographed, resulting in breach of secrecy. The dispute raised by the respondent no.4 under Section 33(5) of the Maharashtra Village Panchayat Act, 1958 was rejected by the respondent no.2/Collector vide order

dated 17.05.2023.

3. Aggrieved by this, the respondent no.4 preferred an appeal as contemplated under the said provision before the respondent no.1/Additional Commissioner. The respondent no.1 has allowed the appeal vide impugned order dated 27.03.2024 on the ground that the Presiding Officer had failed to observe the mandate of Rule 9 of the Maharashtra Village Panchayats (Sarpanch and Up-Sarpanch) Election Rules, 1964. It is held that the scrutiny of nominations and withdrawal of valid nominations ought to have been done in the election meeting. However, a candidate was permitted to withdraw his candidature before commencement of the meeting thereby resulting in breach of Rule 9 of the Election Rules.

4. This contention was not raised by the respondent no.4 in the dispute raised by her before the Collector. Collector has obviously therefore not recorded findings on this aspect. The appeal before Commissioner lies from a decision taken by the Collector adjudicating the dispute raised with respect to the Elections. The Appellate Authority has, for the first time,

ventured into inquiry with respect to mixed question of law and facts without any foundation in the objection raised by the respondent no.4 and in the absence of any finding recorded by the First Appellate Authority namely, the Collector. The order also does not indicate that the ground on which the election is set aside was made known to the petitioner in order to enable him to advance submissions with respect to the said ground. The order clearly indicates breach of principles of natural justice.

5. In that view of the matter, the impugned order dated 27.03.2024 passed by the learned Additional Divisional Commissioner, Chatrapati Sambhajnagar in Appeal No.2023/Gram Panchayat/Appeal-2/CR.499 is quashed and set aside.

6. The learned Counsel for the respondent no.4 makes a statement that the matter should be remanded back to the learned Additional Commissioner for adjudication of the appeal afresh.

7. The learned Counsel for the petitioner opposes the motion.

8. It needs to be mentioned that an application for condonation of delay is allowed by the learned Commissioner. The learned Counsel for the respondent no.4 contends that the learned Commissioner also does not have power to condone the delay. One of the grounds of challenge is that the appeal is barred by limitation and the learned Commissioner does not have power to condone the delay while entertaining an appeal under Section 33(5).

9. Since, purity of election process is in question, it will be appropriate to remand the matter for fresh adjudication.

10. However, the question as to whether the Commissioner has power to condone the delay is kept open to be decided by the Commissioner on granting opportunity of hearing to both sides. In the event the learned Commissioner deems it appropriate to condone the delay holding that he has power to do so, the matter may thereafter be proceed for adjudication on merits. The learned Commissioner shall also decide as to whether the dispute which is not raised by the unsuccessful candidate before the Collector can be raised for the first time in the appeal, having regard to the provision which speaks

about adjudication of the dispute. The learned Commissioner shall keep the said aspect in mind while deciding the appeal afresh.

(ROHIT W. JOSHI, J.)

Rushikesh/2025