



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 WRIT PETITION NO. 4871 OF 2024

1. Tanuja Pandurang Deshmukh
Aged : 30 years, Occ : Household
& Sarpanch of Grampanchayat
Gondegaon, Tq. & Dist. Latur
R/o Gondegaon, Tq. & Dist. Latur
2. Geetanjali Sharnappa Swami
Aged : 35 years, Occ : Household
& Upa-Sarpanch of Grampanchayat
Gondegaon, Tq. & dist. Latur,
R/o Gondegaon, Tq. & Dist. Latur

...Petitioners

VERSUS

1. The State Of Maharashtra
Through The Secretary to the
Government of Maharashtra in
Rural Development Department,
Mantralaya, Fort, Mumbai
2. The Hon'ble Minister
Rural Development Department,
Maharashtra State, Mantralaya,
Fort, Mumbai – 32
3. The Additional Commissioner,
Aurangabad division, Aurangabad.
4. The Additional Collector,
Latur
5. The Chief Executive Officer,
Zilla Parishad, Latur
6. The Gramsevak,
Grampanchayat at Gondegaon,
Tq. & Dist. Latur

7. Sachin Venkatrao Deshmukh
Aged : 40 years, Occ : Agriculture,
R/o Gondegaon, Tq. & Dist. Latur. ...Respondents

...

Mr. Mr. P. S. Chavan Advocate for the Petitioner
Mr. V. M. Chate, AGP for Respondent/State.
Mr. S. S. Kote h/f. Mr. A. V. Hon, Advocate for Respondent No.5
Mr. A. G. Choudhari, Advocate for Respondent No.6.
Mr. Pratik Kothari, Advocate for Respondent No.7

...

**WITH
CIVIL APPLICATION NO. 5497 OF 2024 IN WP/4871/2024**

...

**CORAM : ROHIT W. JOSHI, J.
DATED : 19th JUNE 2025**

JUDGMENT :-

1. The petitioners are Sarpanch and Upsarpanch of Grampanchayat Gondegaon. At the behest of respondents no.7 proceedings for removal of the petitioners from their office was initiated under Section 39 of the Maharashtra Village Panchayat Act, 1959. In terms of proviso to Section 39(1) respondent no.3-The Additional Commissioner had directed respondent no.5-Chief Executive Officer (“CEO”) to conduct an enquiry with respect to allegations leveled against the petitioners. Respondent no.5 - CEO submitted a report stating that the register of encroachments was tampered by the petitioners and other members of the Grampanchayat. The report furnished by the CEO did not find favour

with respondent no.3-Additional Commissioner who rejected the application and recommendation made by CEO for removal of petitioners from the office of Sarpanch and Upsarpanch.

2. Aggrieved by the said order dated 27.03.2023, respondent No.7 preferred an appeal as contemplated under Section 39(3) before respondent no.2- the Hon'ble Minister. Respondent no.2 has allowed the appeal vide order dated 11.03.2024 thereby removing the petitioners from the office of Sarpanch and Upsarpanch.

3. The learned Counsel for the petitioner contends that the sole allegation against the petitioners and other members of the Grampanchayat is that they have manipulated the list of encroachers. He contends that there is no manipulation as such in the list of encroachers. He contends that a list which was already prepared was only counter signed by the petitioners and Secretary of the Grampanchayat. This according to the learned Counsel for the petitioner will not amount to manipulation and tampering of record.

4. Per contra, the learned AGP, the learned Counsel for the Zilla Parishad as also the learned Counsel for respondent no.7 support the order passed by the Hon'ble Minister. They contend that the petitioners were aware about encroachments made by different

persons and have deliberately and willfully failed to discharge their statutory obligation of taking steps for removal of encroachment as is mandated by Section 53 of the Act. They contend that the list of encroachments was deliberately manipulated only in order to shield encroachers including husband of petitioner no.1.

5. With the able assistance of the learned Advocates, I have perused the record of the case and particularly the orders passed by the Additional Commissioner and the Hon'ble Minister.

6. It is well settled that an elected representative cannot be unseated from the office which he resumes through a democratic process without there being compelling reasons and strict evidence to support the reasons for removal. The action under Section 39 is a drastic action which cannot be resorted to as a matter of course.

7. In the case at hand it is found that the Block Development Officer to whom the work of preliminary assessment of fact finding was assigned by the CEO has submitted a report in terms exonerating the petitioners. However, in his report submitted to the Additional Commissioner, the CEO has stated that the petitioner had manipulated the list of encroachers. The Additional Commissioner while deciding the proceedings for removal has recorded a finding

that a list which was already prepared was only counter signed by petitioner no.1 and the Secretary of Grampanchayat. This, according to the learned Additional Commissioner did not amount to manipulation or falsification of the record. In view of such findings, the learned Additional Commissioner deemed it appropriate to reject the application for removal.

8. When the matter went in appeal, the Hon'ble Minister has allowed the Appeal and removed the petitioners from the office of Sarpanch and Upsarpanch. Perusal of order passed by the Hon'ble Minister will demonstrate that initially contentions advanced by rival parties have been enumerated in the order and thereafter conclusion is drawn holding that the petitioners are guilty of misconduct warranting removal from office. However, perusal of the order will demonstrate that the said order is a non-speaking order. It does not record any reasons for arriving at the conclusion that the petitioners have manipulated the records. The findings recorded by the first authority namely, the Additional Commissioner are also not dealt with by the Hon'ble Minister. It is well settled that an order without reasons is a dead letter in the eyes of law and should not be allowed to be sustained. In the present case, democratically elected

representatives are unseated by such a non-speaking order which does not stand to scrutiny of law.

9. In view of the aforesaid, in the considered opinion of this Court, the petitioner deserved to be allowed and is allowed as such by passing the following order :-

ORDER

- (i) Writ petition is allowed.
 - (ii) The judgment and order dated 11.03.2023⁴ passed by the Hon'ble Minister, Rural Development Department, Maharashtra State bearing Case No.VPM-2023/C.No.51/P.S.-6 is quashed and set aside.
 - (iii) The administrator appointed vide order dated 29.04.2024 shall forthwith hand over the charge of the Grampanchayat to the petitioners.
10. Civil Application stands disposed of accordingly.

[ROHIT W. JOSHI, J.]