



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

WRIT PETITION NO.8235 OF 2024

Raju S/o. Ramdhan Pawar,
Age: 42 years, Occu. Agril. & Business,
R/o. Georai, Booke Bond, Paithan Road,
Tq. & Dist. Chh. Sambhajanagar.

.....PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai
2. The Hon'ble Minister,
Rural Development Department,
Mantralaya, Mumbai
3. Divisional Commissioner,
Aurangabad Division, Aurangabad,
Office of Divisional Commissioner,
Aurangabad.
4. The Collector,
Aurangabad.
5. The Chief Executive Officer,
Zilla Parishad, Aurangabad
6. The Block Development Officer,
Panchayat Samiti, Aurangabad.
7. Executive Engineer,
Zilla Parishad, Aurangabad.
8. Dy. Divisional Engineer,
Zilla Parishad, Aurangabad.

9. Branch Engineer,
Zilla Parishad, Aurangabad.
10. Gram Sevak,
Grampanchayat, Georai Brooke Bond,
Tq. & District Aurangabad.
11. Radha W/o. Santosh Rathod (Sarpanch)
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad.
12. Shoba W/o. Bhaskar Bankar (Upsarpanch),
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad
13. Sangita W/o. Anil Appa Padalkar (Member),
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad
14. Badrinath Kachru Bhosle (Member),
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad.
15. Sanjay Eknath Kedare (Member,
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad.
16. Lata W/o. Dnyaneshwar Pawar (Member),
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad.
17. Sunita W/o. Vijay Jadhav (Member),
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad.

18. Mahesh Sheshrao Pawar (Member,
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad.
19. Dnyaneshwar Gorakh Mali (Member),
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad.
20. Meerabai W/o. Ashok Jadhav (Member),
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad.
21. Anita W/o. Suresh Pawar (Member)
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad.
22. Shaikh Rauf Ahmed (Member),
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad.
23. Sandeep Nivrutti Avhad,
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad.

.....RESPONDENTS

WITH

WRIT PETITION NO.14148 OF 2024

Raju S/o. Ramdhan Pawar,
Age: 42 years, Occu. Agril. & Business,
R/o. Georai, Booke Bond, Paithan Road,
Tq. & Dist. Chh. Sambhajinagar.

.....PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai
2. The Hon'ble Minister,
Rural Development Department,
Mantralaya, Mumbai
3. Divisional Commissioner,
Aurangabad Division, Aurangabad,
Office of Divisional Commissioner,
Aurangabad.
4. The Collector,
Aurangabad.
5. The Chief Executive Officer,
Zilla Parishad, Aurangabad
6. The Block Development Officer,
Panchayat Samiti, Aurangabad.
7. Executive Engineer,
Zilla Parishad, Aurangabad.
8. Dy. Divisional Engineer,
Zilla Parishad, Aurangabad.
9. Branch Engineer,
Zilla Parishad, Aurangabad.
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Grampanchayat, Georai Booke Bond,
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Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad
13. Sangita W/o. Anil Appa Padalkar (Member),
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad
14. Badrinath Kachru Bhosle (Member),
Age: Major, Occu. Household,
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Tq. And District Aurangabad.
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21. Anita W/o. Suresh Pawar (Member)
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad.
22. Shaikh Rauf Ahmed (Member),
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R/o. Georai, Brooke Bond,
Tq. And District Aurangabad.
23. Sandeep Nivrutti Avhad,
Age: Major, Occu. Household,
R/o. Georai, Brooke Bond,
Tq. And District Aurangabad.

.....RESPONDENTS

Mr. D. P. Palodkar h/f Mr. S. S. Khoche, Advocate for
Petitioners in both petitions
Mr. M. P. Gude, Advocate for respondent nos.5 to 8 in W.P.
No.8235/2024
Mr. S. R. Dehple, Advocate for respondent nos.5 to 9 in W.P.
No.14148/2024
Mr. G. V. Sukale, Advocate for respondent nos.11, 12 and 18
in W.P. No.8235/2024 and W.P. No.14148/2024
Mr. R. V. Gore, Advocate for respondent nos.13, 14, 15 and 17
in both petitions.
Mr. A. V. Khande, Advocate for respondent nos.19 and 22 in
W.P. No.8235/2024
Mr. N. S. Shah, Advocate for respondent no.21 in both
petitions.
Mr. B. B. Bhise, AGP for respondent-State

CORAM : ROHIT W. JOSHI, J.
DATED : 17TH JULY, 2025

JUDGMENT :-

. The petitioner had filed an application seeking removal of the respondent nos.11 to 22 from office of Sarpanch, Up-Sarpanch and Members under Section 39 of The Maharashtra Village Panchayats Act, 1959. Respondent nos.11, 12 and 13 to 22 are Sarpanch, Up-Sarpanch and Members respectively of village panchayat Georai Brooke Bond. Respondent no.23 is the contractor, who has executed work in question.

2. The petitioner alleged that the respondent nos.11 to 22 had acting in collusion with Officers of Zilla Parishad, Aurangabad, had committed large scale irregularities in implementation of water supply scheme under Jal Jeewan Mission.

3. The respondent no.3/Divisional Commissioner, who is the competent authority for taking action under Section 39 of the Act, called report from the respondent no.5/Chief Executive Officer in this regard. The report was called in view

of mandate of proviso to Section 39 of the Village Panchayat Act. The respondent no.5 directed inquiry in the matter.

4. A five member committee comprising of two Section Engineers, two Extension Officers and Assistant Block Development Officer working with Panchayat Samiti, Chhatrapati Sambhajinagar, issued report, which exonerated the respondent nos.11 to 22. It is stated in the report that the work was allotted by floating e-tender, technical sanctions were obtained from competent authorities and verification of measurement books, estimates, cash books, etc., indicated that the work was done in accordance with the prescribed rules and regulations without any irregularity. As regards work of laying pipeline and individual water connections at Georai Tanda and Pillu Nagar, it is stated in the report that as against sanctioned estimate of Rs.28,45,584/-, the work got executed in expenditure of Rs.27,49,272/-. It is stated that in the monthly meeting held on 08.07.2021, the Gram Panchayat had passed resolution for acquisition of a private well owned by one Gulab Shivrathod. However, it is mentioned that the said individual agreed to provide his well for the water supply scheme without charging any consideration for the

same as a stop gap arrangement till alternate water source was acquired by the Gram Panchayat. It is also recorded that the relevant books of the Gram Panchayat indicated that no amount was expended for drawing water from the said well. As regards connection in Shivkrupa Nagar, it is stated that the records as well as spot inspection indicated that work was not executed in the said locality. In view of the aforesaid, it was stated that there was no material to suggest that the respondent nos.11 to 22 had indulged in any act that may warrant action under Section 39 of the Village Panchayat Act.

5. In view of the said fact finding report dated 07.11.2023, issued by the five member committee, the respondent no.5/CEO and Deputy CEO furnished report dated 08.12.2023, stating that the work was executed in accordance with prescribed rules and regulations; there was no misappropriation of funds; and money was not spent for fetching water from private well. The report suggested that case was not made out for taking action against the respondent nos.11 to 22 under Section 39 of the Village Panchayat Act.

6. Respondent no.3 after hearing the parties, passed order dated 29.05.2024, directing removal of respondent nos.11, 12, 18 and 21 from the Office of Sarpanch, Up-Sarpanch and Members for the remainder of term. Respondent no.3 has recorded the allegations, submissions and extracts from report in the order and has summed up his conclusion in one paragraph. The respondent no.3 has observed that the CEO did not discharge his duty properly while submitting the report and had furnished a misleading and suspicious report. However, no reasons are recorded for arriving at such conclusion. He has observed that respondent nos.11, 12, 18 and 21 had failed to falsify the allegations levelled against them, which were substantiated by evidence during the course of hearing. In view of the aforesaid, the respondent no.3 passed the aforesaid order dated 29.05.2024, for removal of respondent nos.11, 12, 18 and 21 from office of Village Panchayat.

7. Aggrieved by the said order dated 29.05.2024, respondent nos.11, 12, 18 and 21 preferred two separate appeals under Section 39(3) of the Village Panchayat Act. Likewise, the petitioner also filed separate appeal against the

said order dated 29.05.2024, challenging exoneration of other Members of the Panchayat.

8. All these three appeals were heard together by the Hon'ble Minister/respondent no.2. Respondent no.2 has allowed the appeal preferred by the respondent nos.11, 12, 18 and 21 and has dismissed the appeal preferred by the petitioner. The respondent no.2 has recorded finding that there was no irregularity in execution of the work of laying pipeline. This finding is recorded on the basis of report submitted by the respondent no.5/CEO. As regards acquisition of private well, it is observed that the record did not indicate that any expenditure was incurred for the same. It is observed that even if any illegal resolution is passed, that cannot be a ground for taking action under Section 39(1). In this regard, it is observed that it is duty of the Secretary of the Panchayat to appraise the Sarpanch, Up-Sarpanch and Members of the Village Panchayat about the relevant provisions and guide them properly if any resolution is placed for consideration, which is not in accordance with law. However, it must be noted that this observation is made without holding that any illegal resolution is passed by the Gram Panchayat.

9. Mr. D. P. Palodkar, learned Advocate for the petitioner argues that the respondent no.2 has allowed the appeal without considering the reasons recorded by the respondent no.3 in its order passed under Section 39(1). He contends that the order allowing the appeal is a non speaking order. He states that there were large scale irregularities in execution of the work, which lead to an inference of corruption, which the respondent no.2 has completely ignored.

10. Per contra, the learned AGP and learned Advocates appearing for the respondents support the order. They contend that the order passed by the respondent no.3 directing removal is rather a non speaking order, it is contended that the respondent no.3 has not recorded any reason for not agreeing with the report furnished by the CEO, wherein, no irregularity was found.

11. Having heard the respective parties as aforesaid, and on perusal of record with the able assistance of the learned Advocates, I find that the petitioner has failed to make out any case for interference.

12. Perusal of the order passed by the Commissioner will

demonstrate that the said order is a non speaking order. The Commissioner merely observed that the respondent no.5/CEO has furnished a misleading report. However, no reason is assigned for holding that the report is contrary to material or misleading. Having held so, the Commissioner holds that the respondent nos.11, 12, 18 and 21 had failed to disprove the allegations against them. It is merely stated that the allegations were supported by material on record without specifying or pointing out the alleged material.

13. It is seen that the CEO had appointed a five member committee for fact finding exercise. The fact finding committee has clearly stated that the work is executed by floating e-tender; the work is executed within the sanctioned estimate; no expenditure is incurred for acquisition of water from private well; and further that no irregularities were found in execution of the work. It has positively stated that the work executed is properly recorded in all the relevant records. The said committee has examined all the records as such measurement books, cash books, etc. The report of CEO is based on application of mind on the said report. The CEO has heard the complainant and the Members of Panchayat

before furnishing the report.

14. The finding by the Commissioner that the report is misleading is completely without any foundation. The observation is absolutely perverse. Likewise, the Commissioner has committed a fundamental error in passing order of removal. He has observed that the respondent nos.11, 12, 18 and 21 had failed to disprove allegations against them. The legal position in this regard is exactly the opposite. It is for the person who wants to remove democratically elected representatives of people from their office to prove the charges. The charges have to be proved by leading cogent and convincing evidence. The burden of proof on the complainant or authority is very heavy. The Commissioner has completely ignored the said principle while passing order of removal from office under Section 39.

15. The Hon'ble Minister was absolutely right in allowing the appeal. The order passed by the Commissioner is completely unjustified and unsustainable. The submissions made by the learned Advocate for the petitioner that the order passed by the Hon'ble Minister is a non speaking order, does

not merit consideration in the present case. The Hon'ble Minister has considered the report furnished by the CEO and has found that there was no material on record to disbelieve the same. It is rather the order passed by the Commissioner, which is an unreasoned non speaking order.

16. Having regard to the above, no fault can be found with the impugned order passed by the Hon'ble Minister. Writ Petition No.8235 of 2024 is without any substance and is liable to be dismissed.

17. The Writ Petition is dismissed accordingly with no orders as to cost.

18. Civil Application, if any, stands disposed of.

19. Writ Petition No.14148 of 2022 is filed by the petitioner challenging the order passed by the Commissioner whereby his application for removal of respondent nos.13, 17, 18, 19, 21 and 22 as Members came to be rejected as also the common order dated 17.07.2024 passed by the Hon'ble Minister, whereby appeal challenging the order passed by the Commissioner came to be dismissed. There is absolutely no material against the said respondents to remotely suggest that

they had indulged in any wrongful activity warranting removal under the said provision. It will be pertinent to mention here that order of removal was passed against Sarpanch, Up-Sarpanch and the two members, who had proposed and seconded the resolution in question. It is already held that no case is made out against Sarpanch, Up-Sarpanch and the said two members. The case of other members ranks on even better footing. Consequently, there is no substance in Writ Petition No.14148 of 2024 and the same is liable to be dismissed.

20. Civil Application, if any, stands disposed of.

(ROHIT W. JOSHI, J.)