



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

WRIT PETITION NO.10530 OF 2025

Vimal Shivaji Deshmukh,
Age 55 years, Occ. Sarpanch,
R/o At Post Varvanti,
Taluka and Dist. Dharashiv.

...Petitioner.

VERSUS

1. The State of Maharashtra
Through its Secretary Rural Development
Department, Mantralaya, Mumbai.
2. The Additional Commissioner,
Chh. Sambhajinagar Division,
Dist. Chhatrapati Sambhajinagar.
3. The chief Executive Officer,
Zilla Parishad, Dharashiv,
Dist. Dharashiv.
4. The Block Development Officer,
Panchayat Samiti, Dharashiv,
Dist. Dharashiv.
5. Mayur Ankush Gaikwad,
Age Major, Occ. Service,
R/o At Post Varvanti,
Taluka and Dist. Dharashiv.

...Respondents.

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Advocate for Petitioner : Mr. Sujit A. Patil.
AGP for Respondents No.1 and 2 / State : Mr. S. K. Shirse
Advocate for Respondents No.3 and 4 : Mr. Vishnu Kande
Advocate for Respondent No.5 : Mr. S. B. Choudhari

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CORAM : ARUN R. PEDNEKER, J.

Dated : December 17 2025.

JUDGMENT :

1. Heard.
2. Rule. Rule made returnable forthwith. With the consent of the parties,

heard finally.

3. By the present petition, the petitioner challenges the order dated 06/08/2025 passed by the Hon'ble Minister for Rural Development, Mantralaya, Mumbai, whereby the order dated 02/12/2024 passed by respondent No.2 – the Additional Commissioner – came to be confirmed, thereby disqualifying the petitioner from the post of Sarpanch of Village Varvanti, Taluka and District Dharashiv, under Section 39 (1) of the Maharashtra Village Panchayats Act, 1958, (hereinafter referred as 'Act' for the sake of brevity) on the allegation of misconduct.

4. The allegation against the petitioner is that, while functioning as Sarpanch, she issued a certificate to one Tanaji Ramrao Bagal showing his private land bearing Gram Panchayat PropertyNo.383 situated at Mauje Varvanti, Taluka and District Osmanabad, falls within the Gaothan limits, and that such certificate was allegedly misused for sale of the said land.

Facts in Brief :

5. The petitioner was elected as Sarpanch of Village Varvanti, Taluka and District Dharashiv. On 01/02/2023, respondent No.5 lodged a complaint before the Collector, Dharashiv, alleging that the petitioner issued a bogus certificate to Mr. Tanaji Ramrao Bagal, certifying that land bearing Gat No.383 falls within the Gaothan limits, though it was allegedly

private property, and that the said certificate was misused for selling the land.

6. Pursuant thereto, on 28/12/2023, respondent No.2 – the Additional Commissioner, directed the Chief Executive Officer to conduct an inquiry and submit a report. The Chief Executive Officer conducted the inquiry and submitted a report holding that the petitioner had committed misconduct by issuing an undated certificate.

7. Relying upon the said report, the Additional Commissioner, by order dated 02/12/2024, disqualified the petitioner from the post of Sarpanch under Section 39 (1) of the Act. Aggrieved thereby, the petitioner preferred an appeal before the Hon'ble Minister, which came to be rejected by order dated 06/08/2025, confirming the order of disqualification.

Submissions on behalf of the Petitioner :

8. Learned counsel for the petitioner submitted that the entire inquiry conducted under Section 39(1) of the Act is vitiated due to non-compliance of the mandatory procedure prescribed therein. It is submitted that no notice whatsoever was issued to the Village Panchayat, as required under the proviso to Section 39(1) of the Act, and that merely calling upon the Gramsevak to produce records does not amount to notice to the Panchayat.

9. It is further submitted that the petitioner is a lady Sarpanch and had issued the certificate bona fide, on the representation made by Mr. Tanaji Ramrao Bagal that the certificate was required for educational purposes. The statement of Bagal was recorded wherein he assured that the certificate would not be misused. The petitioner had no knowledge or intention that the certificate would be misused for sale of land. Therefore, the essential element of willful misconduct is completely absent.

10. Learned counsel for the petitioner placed reliance upon the judgment of this Court in ***Dnyaneshwar Shridhar Matkar v. State of Maharashtra & Ors. (Writ Petition No.3885 of 2023, decided on 03/05/2023)***, to contend that compliance with the proviso to Section 39(1) of the Act is mandatory and that notice must be issued to the Panchayat in its own name, and the say of the Panchayat must be obtained by way of a resolution before submission of the inquiry report.

11. Reliance is also placed on the judgment of this Court in ***Sau. Sunita Pruthviraj Meshram v. State of Maharashtra & Ors. (Writ Petition No.4074 of 2021, decided on 22/02/2022)***, wherein it has been held that the procedure prescribed under Section 39(1) of the Act is mandatory and non-compliance thereof vitiates the proceedings.

Submissions on behalf of the Respondents :

12. Per contra, learned counsel for the respondents submitted that the petitioner had no authority to issue a certificate certifying private land falls within Gaothan limits. It is submitted that Mr. Tanaji Ramrao Bagal relied upon the said certificate to sell the land to a third party, but for such certificate, the sale would not have been possible.

13. It is submitted that the inquiry was conducted by the Chief Executive Officer after giving the petitioner an opportunity of hearing and that the issuance of a certificate facilitating preparation of a false document squarely amounts to misconduct under Section 39(1) of the Act.

14. It is further submitted that the Gramsevak / Village Development Officer is the Secretary of the Panchayat and, therefore, issuance of notice to the Gramsevak and calling upon him to produce records amounts to sufficient compliance with Section 39(1) of the Act.

Consideration :

15. Having heard the rival submissions, the principal issue that arises for consideration is whether the mandatory requirement of issuing notice to the Village Panchayat, as contemplated under the proviso to Section 39(1) of the Act, has been complied with.

16. This Court, in **Sau. Sunita Pruthviraj Meshram** (supra), has categorically held that compliance with the procedure under Section 39(1) of the Act is mandatory.

17. In **Dnyaneshwar Shridhar Matkar** (supra), this Court has elaborately considered the scope of Section 39(1) of the Act and has unequivocally held that, notice under Section 39(1) of the Act must be issued to the Panchayat, in its own name, and served at its office. Notice to the Gramsevak or Secretary does not amount to notice to the Panchayat. The say of the Panchayat must be obtained by way of a resolution, authorising a person to represent the Panchayat in the inquiry, and calling upon the Gramsevak merely for production of records does not satisfy the statutory requirement.

18. The contention that notice to the Panchayat is only for production of records has been specifically negated in **Dnyaneshwar Shridhar Matkar**, wherein it has been held that the notice is meant to ascertain the stand of the Panchayat and is not an empty formality.

19. In the present case, it is undisputed that no notice was issued to the Village Panchayat and that the Chief Executive Officer submitted his report solely on the basis of records produced by the Gramsevak. The say of the Panchayat was never obtained before submission of the inquiry report.

Conclusion :

20. In view of the law laid down by this Court in ***Dnyaneshwar Shridhar Matkar*** and ***Sau. Sunita Pruthviraj Meshram***, the inquiry conducted under Section 39 (1) of the Act stands vitiated for non-compliance of the mandatory statutory procedure.

21. Consequently, the impugned orders dated 02/12/2024 passed by the Additional Commissioner and 06/08/2025 passed by the Hon'ble Minister are unsustainable in law and are liable to be quashed and set aside. Accordingly, both the orders are hereby quashed and set aside.

22. However, liberty is reserved to the respondents to initiate fresh proceedings under Section 39(1) of the Act, if so advised, strictly in accordance with law and in compliance with the procedure laid down by this Court.

23. The petition stands allowed and disposed of. Rule is made absolute in the above terms.

(ARUN R. PEDNEKER, J.)

vj gawade/-.