

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.6809 OF 2025**

Mr. Tanaji Tukaram Narale
Age: 63 years, Occ: Agriculturist/Sarpanch,
R/at: Village Tippehalli, Khori Wasti,
Tippehalli, Junoni, Solapur-413307. ..Petitioner

VERSUS

1. The State of Maharashtra.
Mantralaya Mumbai.
2. The District Collector - Dist-Solapur
Having O/at: Collector compound, first floor,
Main building, Siddheshwar Peth, Solapur
3. The Tahsildar-Sangola
Having Office at:- Kole,
Sangola, Maharashtra 413307.
4. The Gramsevak of the
Grampanchayat Village Tippehalli.
Having Office at: Grampachayat,
Village Tippehalli, Khori Wasti,
Tippehalli, Junoni, Solapur-413307.
5. The Village Panchayat - Tippehalli.
Having Office at: Grampachayat,
Village Tippehalli, Khori Wasti,
Tippehalli, Junoni, Solapur-413307.
6. Mrs. Ranjana Arun Bajabalkar
Age: 50 years, Occ: Member of Grampanchayat,
R/at: Village Tippehalli, Bajabalkar Wasti,
Tippehalli, Junoni, Solapur-413307.
7. Mrs. Anita Hanumant Mane
Age: 53 years, Occ: Member of Grampanchayat,
R/at: Village Tippehalli,
Arjun Wadi, Mane Wasti,
Tippehalli, Junoni, Solapur-413307.
8. Mr. Dattatray Balu Narale
Age: 36 years, Occ: Member of Grampanchayat
R/at: Village Tippehalli, Master mala,
Tippehalli, Junoni, Solapur-413307,
9. Mr. Sunil Dashrath Mohite
Age: 38 years, Oce: Member of Grampanchayat,

R/at: Village Tippehalli, Mohite mala,
Tippehalli, Junoni, Solapur-413307.

10. Mrs. Susabai Namdev Narale
Age: 60 years, Occ: Member of Grampanchayat,
R/at: Village Tippehalli,
Tippehalli, Junoni, Solapur-413307.
11. Mrs. Nanda Maruti Bajabalkar
Age: 50 years, Occ: Member of Grampanchayat,
R/at: Village Tippehalli, Bajabalkar wasti,
Tippehalli, Junoni, Solapur-413307.
12. Mr. Vishal Sopan Narale
Age: 28 years, Occ: Member of Grampanchayat,
R/at: Village Tippehalli, Sauba Wasti,
Tippehalli, Junoni, Solapur-413307 ..Respondents

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Mr. Abhishek Avachat, Advocate for Petitioner.

Mr. Sanjay D. Rayrikar, AGP for Respondent Nos.1 to 3.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 18th SEPTEMBER, 2025.

PRONOUNCED ON : 23rd SEPTEMBER, 2025.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties, matter is taken up for final hearing at admission stage.
2. The petitioner seeks declaration that No Confidence Motion passed against him on 05.02.2025 as illegal and seeks consequential directions that petitioner be permitted to hold post of Sarpanch of Village Panchayat Tippehalli for remainder of term of Village Panchayat. The petitioner also impugns order dated 24.02.2025 passed by learned Collector, Solapur, thereby refusing to entertain dispute being barred by limitation.

3. The election of Village Panchayat, Tippehalli, was held in month of February 2021. The petitioner was elected as a Member. Subsequently, in meeting held on 26.02.2021, respondent no.12, being sole candidate, was declared elected as Sarpanch. The respondent no.12 resigned from post of Sarpanch. Thereafter, respondent no.6 was elected, but she also resigned in month of December-2023. On 14.12.2023, petitioner was elected/appointed as Sarpanch. On 30.1.2025, notice of No Confidence Motion was moved against petitioner. Eventually, special meeting was convened on 05.02.2025, in which it is declared that No Confidence Motion is validly passed against petitioner.

4. On 14.02.2025, petitioner challenged No Confidence Motion by filing Writ Petition No.2383/2025 contending that entire process was patently illegal and against statutory scheme, particularly in light of Proviso under Section 35 of Maharashtra Village Panchayat Act, 1959 (for the sake of brevity hereinafter referred as 'MVP Act, 1959'), which prohibits to move motion of No Confidence within period of two years from date of election of Sarpanch. However, Writ Petition was disposed of giving liberty in favour of petitioner to avail alternate remedy as permissible under law. Accordingly, on 18.02.2025, petitioner filed dispute before learned Collector, but same is rejected. Hence, this Writ Petition.

5. Mr. Abhishek Avachat, learned Advocate appearing for petitioner submits that Section 35 of Maharashtra Village Panchayat Act provides scheme for motion of No Confidence. The 4th proviso to sub-section (3) of Section 35 specifically prohibits bringing No Confidence Motion within period of two years from date of election of Sarpanch. The petitioner was elected as Sarpanch on 14.12.2023. The notice of No Confidence Motion was moved on 30.01.2025. The Tahsildar took cognizance of said notice and convened special meeting of Panchayat on 05.02.2025 and declared that No Confidence Motion is passed. He urges that Tahsildar could not have entertained notice, as No Confidence Motion was sought to be moved within period of two years from date of election of petitioner as Sarpanch. Although notice itself was invalid, learned Tahsildar illegally acted upon such invalid notice and proceeded to convene special meeting. Therefore, entire process needs to be declared as null and void.

6. Mr. Avachat would rely upon observations of Supreme Court in case of *M/s. Garment Craft Vs. Prakash Chand Goel*¹ to contend that if order is contrary to law and cannot be sustained for several reasons, High Court exercising supervisory jurisdiction, which is in nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice can step in and pass necessary orders. He would further rely upon judgment of Division Bench of this Court in case of *Shital Kiran Rajput*

¹ 2022 SCC OnLine SC 29.

Vs. The District Collector, Chhatrapati Sambhajanagar and Ors. (Writ Petition No.13685/2024 decided on 27.01.2025) to contend that protection given under 4th proviso of Section 35 is to person holding post of Sarpanch. The term Sarpanch cannot be independently read from person elected on post of Sarpanch. The purposive interpretation and literal meaning of aforesaid provision makes it explicitly clear that protection is available to person elected as Sarpanch from the date he assumes charge.

7. Having considered submissions advanced, apparently petitioner had previously approached this Court by filing Writ Petition No.2383/2025 impugning No Confidence Motion and said Writ Petition was withdrawn with permission to avail alternate remedy as permissible under law. In deference to aforesaid liberty, petitioner had filed dispute before learned District Collector under Section 35(3B) of MVP Act, 1959. The learned Collector by his order dated 24.02.2005 dismissed dispute being barred by limitation, since period of seven days as contemplated under Section 35(3B) of MVP Act, 1959 was expired prior to filing of Appeal.

8. In backdrop of aforesaid facts, controversy in present Writ Petition would be limited to consider if this Court can exercise its supervisory jurisdiction and entertain prayers in petition, once statutory remedy of Appeal has been lost by operation of law, particularly clause prescribing seven days period for filing Appeal.

9. The Supreme Court of India in case of ***Assistant Commissioner (CT) LTU, Kakinada & Ors. Vs. M/s. Glaxo Smith Kline Consumer Health Care Limited***² observed in paragraph no.15 as under:

*“If the writ petitioner choses to approach the High Court after expiry of the maximum limitation period of 60 days prescribed under Section 31 of the 2005 Act, the High Court cannot disregard the statutory period for redressal of the grievance and entertain the writ petition of such a party as a matter of course. Doing so would be in the teeth of the principle underlying the dictum of a three-Judge Bench of this Court in ***Oil and Natural Gas Corporation Limited*** (supra). In other words, the fact that the High Court has wide powers, does not mean that it would issue a writ which may be inconsistent with the legislative intent regarding the dispensation explicitly prescribed under Section 31 of the 2005 Act. That would render the legislative scheme and intention behind the stated provision otiose.”*

10. In light of aforesaid observations, when petitioner has already exhausted appellate remedy after withdrawal of earlier Writ Petition and Appellate Authority declined to entertain dispute being barred by limitation, such remedy is closed by operation of law in light of scheme under provisions of Section 35 of MVP Act, 1959. This Court cannot entertain cause barred by express limitation under relevant statutory scheme by invoking supervisory jurisdiction under Article 227 of Constitution of India. Under Maharashtra Village Panchayat Act, if statute prescribes period of seven days to challenge No Confidence Motion passed against Sarpanch, and petitioner fails to avail of such remedy within prescribed period, Writ Court cannot entertain such challenge, when even Appellate Forum under statute cannot entertain.

11. Pertinently, it is not case of petitioner that his Appeal before learned Collector was within period of limitation or there is any room to extend period of limitation prescribed under Scheme of Section 35 of MVP Act, 1959.

12. In result, Writ Petition sans merit. Hence, dismissed.

13. Rule stands discharged.

(S. G. CHAPALGAONKAR)
JUDGE