

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12386 OF 2024

Swati Someshwar Devkar

... Petitioner

V/s.

State of Maharashtra and ors.

... Respondents

Mr. Rahul S. Kadam with Mr. Shardul Diwan and Mr. Vedant Babar,
Advocates for the Petitioner.

Mr. P. G. Sawant, AGP for Respondents No.1, 2 and 4/State.

Mr. C. G. Gavnekar with Mr. Bhalchandra Shinde i/by Mr. Sohel Mujawar,
Advocates for Respondent No.5.

CORAM : SANDEEP V. MARNE, J.

Dated : 26 February, 2025.

P.C. :

1. The Petition challenges order dated 7th August, 2024 passed by the Hon'ble Minister (Village Development) allowing the appeal filed by Respondent No.5 and setting aside the order dated 12th October, 2023 passed by the Divisional Commissioner, Pune. By order dated 12th October 2023, passed under provisions of Section 39 of the Maharashtra Village Panchayats Act, 1959 (**the Act**) the Divisional Commissioner had removed Respondent No. 5 from the position of Sarpanch and Member. Petitioner was one of the Complainants on the basis of whose complaint the Divisional Commissioner had passed order for removal of Sarpanch dated 12th October,

2023. Since the Hon'ble Minister has reversed the order of the Divisional Commissioner, the Petitioner has filed the present petition.

2. I have heard Mr. Kadam, the learned counsel appearing for the Petitioner, Mr. Gavnekar, the learned counsel appearing for Respondent No.5 and Mr. Sawant, the learned AGP appearing for Respondents No.1, 2 and 4.

3. Having considered the submissions canvassed by the learned counsel appearing for the parties, it appears that total 14 allegations were levelled against Respondent No.5. Initially it appears that an inquiry was conducted by the Block Development Officer and Chief Executive Officer (C.E.O.) and report dated 13th December, 2022 was submitted which did not record findings about each allegation of charge. Therefore, fresh report of Chief Executive Officer, Zilla Parishad was called for by the Divisional Commissioner. Accordingly, fresh report dated 5th July, 2023 was submitted by the C.E.O. in which out of the total fourteen charges, only charge Nos.1, 2, 3, 5, 6 and 11 were found to be proved whereas rest of the charges were found to be disproved. Though the Divisional Commissioner thought it appropriate that the proof of six charges against Respondent No.5 was good enough for exercising the power of removal under Section 39 of the Act, the Hon'ble Minister has taken note of the fact that there was delay on the part of the then Gram Sevak to take charge of his post on account of which certain irregularities has cropped up in the manner in which the meetings were held and records of Gram Panchayat were maintained. Even the report of C.E.O. dated 5th June, 2023 would indicate that Gram Sevak was also held responsible in respect of most of the allegations. After going through

the findings recorded by the C.E.O. in its report dated 5th June, 2023 which was accepted by the Divisional Commissioner, it becomes difficult to infer that the discrepancies noticed in respect of the said six allegations are serious enough so as to unseat democratically elected Member and Sarpanch from her position.

4. It must be borne in mind that Petitioner is an interested person in occupying the position of Sarpanch. Petitioner is also an elected Member and it appears that after passing of order dated 12th October, 2023, Petitioner functioned as Sarpanch. Thus, this appears to be a clear case of claim to the position of Sarpanch. Petitioner, who could not democratically get herself elected as Sarpanch, has apparently taken route of Section 39 of the Act for the purpose of claiming the said position.

5. The Hon'ble Minister who is vested with statutory power to decide the appeal has not viewed six allegations in respect of Respondent No.5 to be serious enough for ordering removal of Respondent No.5 from the post of Member and Sarpanch. The subjective satisfaction recorded by the Hon'ble Minister cannot be interfered with by this Court in exercise of jurisdiction under Article 227 of the Constitution of India. Petitioner ultimately is a democratically elected Sarpanch and cannot be removed unless a definitive finding can be recorded that she has either committed any intentional misconduct, disgraceful conduct or deliberate neglect in performance of her duties.

6. In that view of the matter, no interference is warranted in the impugned order passed by the Hon'ble Minister.
7. The petition is accordingly rejected without any order as to costs.

(SANDEEP V. MARNE, J.)