

Shabnoor

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

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WRIT PETITION NO.6254 OF 2025

Somnath Dattatraya Kanse ... Petitioner
V/s.
 Minister for Rural Development & Ors. ... Respondents

Mr. Chetan G. Patil i/by Mr. V.S. Gadage, for petitioner.
 Smt. Dhruti M. Kapadia, AGP for State – respondent
 Nos.1 to 3.

CORAM : AMIT BORKAR, J.

DATED : MAY 7, 2025

P.C.:

1. Issue notice to the respondents, making it returnable on 16th July 2025. The respondents shall file their reply, if any, on or before the returnable date.
2. From the record and submissions, it prima facie appears that the petitioner has been removed from office under Section 39 of the Maharashtra Village Panchayats Act, 1959. The removal is based mainly on two allegations:

First, that the petitioner presided over a meeting of the Panchayat which allegedly did not meet the quorum requirement. According to the respondents, Section 51 of the said Act prescribes a quorum of 100 voters for a valid Gram Sabha meeting. However, the meeting convened under the petitioner's authority had the presence of only 97 voters.

Second, it is alleged that the petitioner declined to sign a bill

submitted by a contractor, which is claimed to be an act of obstruction in administrative functioning.

3. At this stage, it is necessary to examine whether the grounds stated can be said to amount to "*misconduct*" as contemplated under Section 39 of the Maharashtra Village Panchayats Act, 1959. The term "misconduct" is not defined exhaustively in the statute and must therefore be interpreted in light of judicial precedents and principles of natural justice.

4. Prima facie mere irregularity or administrative lapse without dishonest intention or mala fide conduct cannot per se amount to misconduct warranting removal from office. In the present case, the first ground pertains to a possible shortfall of 3 members in the quorum, which appears to be a technical defect rather than a deliberate violation. There is nothing on record to show that the meeting was held with an intent to bypass the statutory process or gain undue benefit.

5. As regards the second allegation, refusal to sign a contractor's bill, the petitioner has stated that the bill was not in accordance with procedural requirements and raised genuine doubts about the correctness of the claim. In absence of any finding showing mala fides or corruption, such conduct by an elected representative cannot lightly be termed as misconduct.

6. In these circumstances, this Court is of the opinion that the impugned action of removal requires deeper scrutiny, particularly in the context of whether the ingredients of "misconduct" under Section 39 are satisfied.

7. Hence, by way of ad-interim relief, it is directed that till the next date, the petitioner shall not be removed from office. This order shall operate in terms of prayer clause (d) of the petition.

(AMIT BORKAR, J.)