# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
## CIVIL APPELLATE JURISDICTION
## WRIT PETITION NO. 7664 OF 2025

Ashwini Arvind Shirgave … Petitioner

vs.

Minister for Rural Development and Panchayat Raj and others … Respondents

Mr. S. R. Ganbavale a/w. Mr. Ruturaj Pawar for petitioner.

Smt. V. S. Nimbalkar, AGP for respondent Nos.1 and 2-State.

Mr. Surel S. Shah, Senior Advocate, a/w. Mr. Rahul P. Kasbekar for respondent Nos.6 and 7.

CORAM : MANISH PITALE, J.
DATE : 16th JUNE, 2025

P.C. :

. Heard Mr. Ganbavale, learned counsel for petitioner, Ms. Nimbalkar, learned AGP for respondent Nos.1 and 2-State and Mr. Shah, learned senior counsel for respondent Nos.6 and 7.

2. Issue notice for final disposal, returnable on 22.07.2025, High on Board.

3. The learned counsel appearing for the petitioner is pressing for interim reliefs, for the reason that the effect of the impugned orders passed by respondent No.2-Divisional Commissioner and respondent No.1-Minister for Rural Development, is that the petitioner, who is an elected *sarpanch*, would stand removed from office.

4. The present petition arises out of an action undertaken against the petitioner under Section 39 of the Maharashtra Village Panchayats Act, 1959, seeking her removal for misconduct.

PRIYA KAMBLI Digitally signed by PRIYA KAMBLI Date: 2025.06.17 10:30:17 +0530

5. It is to be noted that after respondent No.2-Commissioner had passed the order removing the petitioner from the elected post of *sarpanch* and the appeal was pending before the respondent No.1, by an order passed by this Court in Writ Petition No.14581 of 2024, interim relief was granted in favour of the petitioner, which continued till the pendency of the appeal before the respondent No.1. As a consequence, the petitioner continued to perform her duties as *sarpanch* till the impugned order dated 02.06.2025 was passed by respondent No.1, dismissing the appeal.

6. This Court is inclined to grant ad-interim reliefs in favour of petitioner for the following reasons:

(a) There appears to be a strong *prima facie* case in favour of the petitioner to contend that the procedure contemplated under Section 39(1) of the aforesaid Act, was not complied with, inasmuch as the enquiry to be conducted and report to be submitted by the Chief Executive Officer (CEO) to the Commissioner, was not done as per the mandate of the said provision, particularly in the light of the proviso to Section 39(1) of the said Act.

(b) The actual process of enquiry *prima facie* appears to have been conducted by the officers subordinate to the CEO, which is in the teeth of the requirement of the said provision.

(c) The petitioner appears to be justified in relying upon the judgement dated 11.03.2024 passed by this Court in Writ Petition No.10135 of 2023 and connected writ petitions (**Jayeshree Gajanan Waghmare and another vs. Divisional Commissioner and others**), wherein this Court has categorically held in the context of Section 39(1)(i) of the said Act that the enquiry contemplated therein has to be conducted only by the

CEO under the orders of the Commissioner and no other authority can be directed to conduct the enquiry.

(d) In the light of the said position of law, a strong *prima facie* case is made out by the petitioner in her favour, to claim that the procedure contemplated under Section 39(1) of the said Act, was thrown to the wind in the present case, while arriving at adverse findings against her.

7. In view of the above, there shall be ad-interim relief in terms of prayer clauses (d), (e) and (f), which read as follows:

> ‘d. Pending hearing and final disposal of the present writ petition, this Hon'ble Court be pleased to stay the operation, implementation, effect and execution of the order dated 02.06.2025 passed by respondent no.l in appeal no. VPM-2024/Pra.Kra.153/Pa.Ra.6, annexed at "Exhibit -II" hereto.
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> e. Pending hearing and final disposal of the present writ petition, this Hon'ble Court be pleased to stay the operation, implementation, effect and execution of the order dated 10.10.2024 passed by respondent no.2 in Complaint Application no. KRA. VIKAS/GRAPA/SR-17-2024, annexed at "Exhibit - CC" hereto.
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> f. Pending hearing and final disposal of the present writ petition, this Hon'ble Court be pleased to permit the petitioner to function as sarpanch of respondent no.5 gram panchayat.’

8. Reply affidavits, if any, be filed on or before 08.07.2025. Rejoinder affidavit, if any, be filed on or before 18.07.2025.

(MANISH PITALE, J)

*Priya Kambli*