



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 264 OF 2024

- 1) Dipak s/o Waghujji Satpute,
Occu. Cultivator, Aged about 37 years,
- 2) Vishnu s/o Narayan Mutkule
Occ. Cultivator, aged about 55 years,
Both R/o Village Warud Bibi,
Tq. Umarkhed, District Yavatmal.

.... **PETITIONERS**

// **VERSUS** //

- 1) The Divisional Commissioner, Amravati
Division, Amravati.
- 2) The Zilla Parishad, Yavatmal,
through its Chief Executive Officer,
Yavatmal, District Yavatmal
- 3) The Gram Panchayat, Warud Bibi,
Tq. Umarkhed, Through its Secretary
- 4) Shri Tukaram s/o Basram Jadhao,
Aged Major, Sarpanch Gram
Panchayat Warud Bibi, Tq. Umarkhad,
District Yavatmal.

.... **RESPONDENT**

Shri Vishwa Gadbaile, Advocate h/f Shri K.S. Narwade, Advocate, for the
Petitioners

Shri H.D. Futane, AGP for respondent No.1

Mrs. Sonali Saware Gadhave, Advocate for the Respondent No.2

CORAM : SMT. M.S. JAWALKAR, J.

DATED : 22.04.2025

(ORAL) JUDGMENT :

1. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

2. It appears that there was general election for the Gram Panchayat Warud Bibi on 22.02.2021 for its seven members, the respondent No.4 was elected as Sarpanch on 30.05.2023. Except the respondent No.4, six members tendered their resignations and same was accordingly accepted.

3. It is submitted that on 04.10.2023, the Block Development Officer, Umarkhed submitted a proposal to the respondent No.2 for dissolution of panchayat under Section 145(1A) of the Panchayat Act as out of seven, six members have resigned. The Zilla Parishad respondent No.2 submitted proposal to the respondent No.1 for necessary orders. The respondent No.1 without following the provisions of Section 145, 1A and (2) directed that the panchayat should not be dissolved and there should be election for vacant seats. This order dated 13.12.2023 is under challenge in this matter.

4. The learned AGP opposed the petition and relied on ***Shri Jahangir Yusuf Qureshi and ors. Vs. State of Maharashtra and Ors.***

2007 (6) ALL MR 886, wherein this Court held in paragraph No.10 as under:

“10. It will be clear from the above quotation that the Divisional Commissioner has taken recourse to his power to dissolve Panchayat and appoint Administrator just because "As per Section 145(1-A) of the Bombay Village Panchayat Act the Gram Panchayat can be dissolved if more than half of the posts become vacant and Gram Panchayat comes in minority". No other reasons are recorded.”

However, this judgment is in respect of order of Divisional Commissioner to dissolve panchayat as more than half of the members resigned. This Court held that without assigning reasons just because power is there dissolved the panchayat, the Court held that provision is directory.

5. Heard learned Counsel for both the parties, perused documents placed on record. For the sake of convenience Section 145 (1A) along with proviso is reproduced as under:

*“**Section 145 (1A)** If more than half of the total number of seats in a panchayat have become vacant, the State Government may by an order published in the Official Gazette, dissolve such panchayat:
Provided that, the provisions of this sub-section shall not apply in respect of a panchayat where the Sarpanch is directly elected under section 30A-1A.”*

6. In this Section, it appears that the State Government may by an order dissolve said panchayat that means it is not mandatory

always to dissolve the panchayat word may used indicate that it is directory. Specifically when, the Sarpanch of the panchayat was not directly elected so as to not to apply this provision. He is elected by the members. As such, the Divisional Commissioner may dissolve the panchayat or may adopt any other recourse which he has done in the present matter by declaring election. As such, there is no merit in the petition. The Writ Petition is dismissed. No orders as to costs.

(SMT. M.S. JAWALKAR, J.)

R.S. Sahare