



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

WRIT PETITION NO. 6516 OF 2024

Shri. Sunil S/o Jagannath Ramgonwar,
Aged 43 years, Occ: Agriculturist and
Business, R/o Chakalpeth, Tq. Chamorshi,
Dist: Gadchiroli.

.... **PETITIONER**

// VERSUS //

1. Hon'ble Minister, Rural Development,
Government of Maharashtra,
Mantralay, Mumbai-32.
2. Additional Commissioner,
Nagpur Division, Nagpur.
3. Chief Executive Officer,
Zilla Parishad, Gadchiroli,
4. Block Development Officer,
Panchayat Samitee,
Chamorshi, Dist: Gadchiroli.
5. Secretary, Gram Panchayat,
Chakalpeth, Tq. Chamorshi,
Dist: Chandrapur
6. Smt. Geeta W/o Vikas Raysidam,
Aged major, Occ: Housewife,
7. Pramod S/o Raghunath Chudhari,
Aged major, Occ: Agriculturist,
8. Ashok S/o Ramdas Kukadkar,
Aged major, Occ: Agriculturist,
9. Smt. Sangita W/o Tanuji Charduke,
Aged major, Occ: Agriculturist,
10. Smt. Manda W/o Sanjay Khedekar,

Aged major, Occ: Housewife,

Respondent nos.6 to 10 are R/o Chakalpeth
Tq. Chamorshi, Dist: Gadchiroli.

.... **RESPONDENTS**

Mr. S.S. Shingane, Advocate for the Petitioner.

Mr. H.D. Futane, Assistant Government Pleader for Respondent/State

Mr. Suyash Agrawal, Advocate for Respondent Nos. 3 to 5 through V.C.

Mr. V.R. Deshpande, Advocate for Respondent No.6

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

DATE ON RESERVING THE JUDGMENT : 04/04/2025

DATE ON PRONOUNCING THE JUDGMENT : 06/05/2025

JUDGMENT :

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

2. Being aggrieved by the order dated 20.09.2024 received on 17.10.2024 passed by the Hon'ble Minister, Rural Development, Government of Maharashtra in Appeal No. VPM-2024/Case No.108/PR-6, Gram Panchayat Chakalpeth, Tq. Chamorshi, Dist: Gadchiroli.

3. The petitioner is Up-Sarpanch of Gram Panchayat, Chakalpeth where as the respondent No.6 was Sarpanch and respondent Nos. 7 to 10 are Members of respondent No.5 Gram Panchayat who were elected in the election held for the term of 2021-2026.

4. The Respondent No.1 is the Hon'ble Minister, Rural Development, Government of Maharashtra, Mantralay, Mumbai, respondent No.2 is the Additional Commissioner, Nagpur Division, Nagpur. Respondent No.3 is the Chief Executive Officer, Zilla Parishad, Gadchiroli, The Respondent No.4 is the Block Development Officer, Panchayat Samitee, Chamorshi, Dist: Gadchiroli and Respondent No.5 is the Secretary, Gram Panchayat, Chackalpeth, Tq. Chamorshi, Dist: Gadchiroli.

5. On 20.09.2023 the petitioner alongwith respondent Nos. 7 to 10 filed complaint under Section 39 of Maharashtra Gram Panchayat Act, 1958, before the respondent No.2 against the respondent No.6 thereby claiming to disqualify respondent No.6 from the posts of membership of Gram Panchayat on the ground of non signing of files of Development works, demanding 10% commission from Contractors, non sanctioning bills of contractors and other administrative defalcations. In support of his contention that the petitioner attached the note sheets submitted by the Secretary for signature. On 06.02.2024, Respondent No.3 after hearing all the parties submitted his report to Respondent No.2 holding that all charges have been proved and Respondent No.6 was held to be liable for action under Section 39 of Maharashtra Village Panchayat Act. On 23.07.2023, Respondent No.2 allowed the complaint made by the petitioner under

Section 39 (1) of Maharashtra Village Panchayat Act, 1958. The Respondent No.6 preferred an appeal under Section 39 (3) of Maharashtra Village Panchayat Act, 1958, before respondent No.1 and on 19.09.2024, respondent No.1 heard the parties and closed the appeal for order.

6. On 17.10.2024, Respondent No. 4 issued communication to the Secretary informing that the appeal is allowed by the order dated 20.09.2024. The aforesaid order is the subject matter of challenge in the present petition.

7. Learned Counsel for the petitioner contended that the Respondent No.1 did not take into consideration facts of the present case and mandate of Section 39 (1) of Maharashtra Village Panchayat Act in proper perspective. It is further contended that the Respondent observed that there are lacunas in the working of the respondent No.6 in capacity of the Sarpanch and inspite of that they observed that the Sarpach can not be removed merely on Administrative and Technical grounds.

8. It is submitted that Respondent No.1 lost sight on the fact that the Secretary had placed before Respondent No.6 the Record of the Tender for Signature and approval of the respondent No.6 vide

note sheet dated 19.07.2023 and it is further put-forth on 24.07.2023. The Secretary had placed before the Respondent No.6 the note sheet informing that due to non signature and non approval within time, the grant of Government may return back, therefore, again presented the note sheet for approval of the respondent No.6 but she did not sign. All these facts were not properly taken into consideration by the Respondent No. 1 and passed an impugned order, which needs interference by this Court.

9. Learned Counsel for petitioner relied on ***Sandip Ramesh Khidbide Vs. Pratima Prakash Gaikar and others 2023 (3) All.M.R. 1.***

10. Learned counsel for the Respondent No. 6 contended that in the preliminary objection the Respondent No. 6 has categorically stated that, Respondent No. 3 has not considered the written submission submitted by the Respondent No. 6. It was further stated that, the entire inquiry report nowhere discloses actual misconduct committed by the Respondent No.6 while discharging her duty as Sarpanch.

11. It is further contended that, in the preliminary objection, the Respondent No. 6 has categorically stated that initially the enquiry report was prepared by the present Respondent No. 4 and same was

forwarded to the Respondent No. 3. The Respondent No. 3 without applying his mind has submitted the same report with Respondent No. 2. The respondent No. 4 is having no authority under Section 39 (1) of Maharashtra Village Panchayat Act to conduct any enquiry or to prepare any report. Therefore, the report submitted by the Respondent No. 3 is illegal and void.

12. All the aforesaid objections were raised by the Respondent No.6 before Respondent No. 2, which were overlooked by Respondent No.2. The Respondent No.1 while passing the order was vigilant enough to consider all these factor and, thereafter, passed a detailed and well reasoned order, which shows that the order passed by the Respondent No.1 is with due application of mind, therefore, the order passed by the Respondent No.1 does not need any interference from this Court and also needs to be confirmed.

13. Learned Counsel for respondent No.6 relied on following citations :

1. *Namba Yadav Bhoi Vs. President, Standing Committee, Zilla Parishad, Jalgaon and others 2002 (3) Mh.L.J. 466.*
2. *Sonam Lakra Vs. State of Chhattisgarh and ors. In Civil Appeal No. 12326/2024 of the Supreme Court of India arising out of SLP (C) No.7279 of 2024.*

3. *Jagdish Mannalalji Sancheriya Vs. State of Maharashtra and others, 2022 SCC OnLine Bom 1324.*

3. *Sau. Sunita Pruthaviraj Meshram Vs. State of Maharashtra and others, in Writ Petition No. 4074 of 2021.*

4. *Sadhuram Jivan Kamble Vs. The State of Maharashtra and others, in Writ Petition No. 11638 of 2022.*

5. *Rajendra S/o Radhakisan Raut Vs. State of Maharashtra and others, 2022(3) Mh.L.J. 154.*

14. Heard learned Counsel for respective parties and learned A.G.P for the respondent/State. The present petition is filed by the complainant being aggrieved by the order dated 20.09.2020 passed by the Hon'ble Minister/respondent No.1, thereby allowed the appeal of respondent No.6. The main question for consideration is whether there was serious irregularity so as to remove the Sarpanch from the office of Gram Panchayat.

15. The learned Counsel for petitioner relied on **Sandeep Ramesh Khidbide (supra)**, wherein the Hon'ble Minister of Rural Development recorded finding that there was misconduct and financial irregularity but set aside reasoned order of divisional commissioner of removal of respondent from office of Sarpanch. The reason given was found very strange reason to this Court that respondent being woman

misconduct was pardonable. It is held that very object of woman empowerment would be frustrated, if under guise of advancing interest of women, a gross misconduct of a particular woman is condoned.

16. As against this, learned Counsel for respondent No.6 relied on judgment of ***Nimba Yadav Bhoi (supra)***, and ***Sau. Sunita Pruthaviraj Meshram (supra)***, in support of his contention that in view of Section 39, only Chief Executive Officer can conduct enquiry. The preliminary objection of respondent No.6 was that initially the enquiry report was prepared by the Block Development Officer/ respondent No.4 and same was forwarded to respondent No.3/ Chief Executive Officer. Respondent No.3 without applying his mind has submitted the same report with respondent No.2. In ***Nimba Yadav Bhoi (supra)***, wherein this Court held as under:

“The enquiry in relation to conduct of Sarpanch under proviso to section 39(1) of the Bombay Village Panchayats Act, 1958, has necessarily to be conducted by the Chief Executive Officer and none else. Such enquiry has to be preceded by necessary order directing the Chief Executive Officer to hold the enquiry and such order should be necessarily issued by the president of the Zilla Parishad. The requirements under section 39(1) are mandatory in nature and on failure in that regard on the part of the authorities, the proceedings under section 39(1) would be vitiated and any order passed on the basis of such proceedings which are vitiated would be rendered null and void.”

17. Learned Counsel for respondent No.6 also placed reliance on judgment of Hon'ble Apex Court in ***Sonam Lakra (supra)***, wherein the Hon'ble Apex Court held as under:

“14. It deeply concerns us that there is a recurring pattern of similar cases, where administrative authorities and village panchayat members collude to exact vendettas against female Sarpanches. Such instances highlight a systemic issue of prejudice and discrimination. More recently, in Civil Appeal No. 10913/2024, titled '**Manisha Ravindra Panpatil v. The State of Maharashtra**', decided on 27.09.2024, we observed that cases involving female Sarpanches often reveal a pervasive pattern of unfair treatment across various levels of administrative functioning. Alarmingly, the removal of an elected female representative, especially in rural and remote areas, is frequently treated as a casual matter, wherein disregarding principles of natural justice and democratic processes is treated as a time-honored tradition. This entrenched bias is particularly disheartening and demands serious introspection and reform.

15. In this context, we must emphasize that as a nation striving to become an economic powerhouse, it is distressing to witness such incidents occurring consistently and being normalized, so much so that they bear striking similarities even in geographically distant regions. Administrative authorities, being custodians of actual powers and affluent enough, should lead by example, making efforts to promote women's empowerment and support female-led initiatives in rural and remote areas. Instead of adopting regressive attitudes that discourage women in elected positions, they must foster an environment

that encourages their participation and leadership in governance.”

18. Learned Counsel for respondent No.6 also relied on ***Jagdish Mannalalji Sancheriya (supra)***, wherein this Court held in para 29 as under:

“29. The said position of law laid down by the Division Bench of this Court applies in the present also because the petitioner as the elected Sarpanch has been removed from office on the ground that he was guilty of neglect in performing his duties. The material on record must indicate that such neglect, if at all, was gross neglect, willful or intentional on the part of the petitioner. With this backdrop, the material on record needs to be considered to examine the correctness or otherwise of the impugned orders passed by the respondents.”

Thus, for removal of Sarpanch, there has to be gross neglect, willful or intentional on the part of Sarpanch. It is also explained in the said judgment that what is ‘neglect’ and ‘negligence’. The word ‘neglect’ appears to have a different connotation than the word ‘negligence’. The word ‘neglect’ means ‘gross neglect’, willful, intentional, culpable or flagrant disregard of duties.

19. Learned Counsel for respondent No.6 also relied on ***Sadhuram Jivan Kamble (supra)***, wherein this Court upheld the order of Hon’ble Minister. In the said matter it is also observed by this Court

that the Chief Executive Officer himself has not conducted any enquiry but relied upon the report of enquiry conducted by Extension Officer of Panchayat, Samiti, Udgir, and considering the peculiar facts held that the order passed by the Hon'ble Minister is perfectly justified.

20. Learned Counsel for respondent also placed reliance on ***Rajendra s/o Radhakisan Raut (supra)***, in support of his contention that an error of judgment would not amount to misconduct unless it implies a wrongful intention and not a mere error of judgment. Mere error of judgment resulting in negligent act does not amount to misconduct, but the exceptions have been carved out and mere error of judgment resulting in doing of negligent act does not amount to misconduct.

21. In the present matter, respondent No.1 has duly considered the fact that there is no misappropriation or any embezzlement and, therefore, it is held that it would not be appropriate for such technical and administrative ground to remove the Sarpanch. It is also taken note by the Hon'ble Minister that the brother of complainant Up-Sarpanch was received one tender, therefore, complainant himself is liable to be disqualified. These aspects are not taken into account by the Chief Executive Officer. There are certain deficiencies in construction of road as well as rooms of the school.

Thus, in view of the judgment of the Hon'ble Apex Court, I do not see any reason to interfere in the order passed by the Hon'ble Minister. Accordingly, the Writ Petition stands dismissed.

R.S. Sahare

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