



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

WRIT PETITION NO. 7065/2025

(SANTOSH DILIP KHANDARE **VERSUS** THE HON'BLE MINISTER, RURAL DEVELOPMENT
DEPARTMENT, MUMBAI & OTHERS)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri R.D. Karode, counsel for the petitioner.
Smt. M.S. Naik, Assistant Government Pleader for the respondent nos.1 and 2.
Shri B.T. Parwe, counsel for the respondent nos.3 and 6.
None for the respondent no.4, though served.
Shri P.N. Atkar, counsel for the respondent no.5.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : DECEMBER 18, 2025.

Heard the learned counsel for the parties.

2. By this petition, the petitioner has challenged the order dated 01.07.2025 passed by the Additional Commissioner and the order dated 03.11.2025 passed by the Hon'ble Minister disqualifying the petitioner under Section 39 of the Maharashtra Village Panchayats Act, 1959 (for short, 'the Act of 1959') from the post of Sarpanch of Gram Panchayat Ansing.

3. As regards the reasons for disqualification, the learned counsel for the petitioner submits that a separate proceedings bearing Public Interest Litigation No.21 of 2023 was already filed before this Court which came to be dismissed and as such the allegations of irregularities in allotment of the work order to the Contractor had no basis. He submitted that the order of disqualification under Section 39(1) of the Act of 1959 was therefore without any basis. As regard the allegations of allotment of shops from the shopping centre, he submitted that there is no material to conclude that the petitioner has indulged in any kind of irregularities or illegalities and since no loss is caused to the Gram Panchayat, the foundation for action under Section 39(1) of the Act of 1959 on this count was baseless.

4. Opposing the petition, the learned counsel for the respective respondents submitted that the action of disqualification is based on the report of the Chief Executive Officer and in view of the glaring illegalities committed by the petitioner, the Additional Commissioner has rightly inferred about the petitioner's disqualification under Section 39(1) of the Act of 1959.

5. While considering the controversy, it has to be seen that the respondent-Authorities have recorded inferences based on the enquiry report of the chief Executive Officer. The enquiry report elaborately deals with the allegations levelled against the petitioner and records inferences that the issuance of work order to the Contractor before opening of the tender was an illegality on the part of the petitioner, who was working as Sarpanch. It is also specifically recorded that while allotting shops from the shopping centre, there is violation of the Government Resolution dated 27.12.1999 so also while making expenses of Rs.3,08,355/- on the occasion of Diwali, there is a breach of Accounts Code 2011. On the basis of these pertinent observations recorded by the Chief Executive Officer, the Additional Commissioner has passed the order dated 01.07.2025 which is apparently based on his subjective satisfaction. The order is passed after giving due opportunity of hearing to the petitioner and after considering the explanation placed on record. A perusal of the impugned orders shows that the findings are recorded on the basis of the report of the Chief Executive Officer and there is no perversity in the findings. Even the order passed by the Hon'ble Minister also gives due consideration to the contentions advanced and there is no perversity in the concurrent findings.

6. Section 39(1) of the Act of 1959 empowers the Commissioner to take a decision on the basis of his subjective satisfaction. Indeed in the instant case, the decision is taken on the basis of the report of the Chief Executive Officer and after affording proper opportunity of hearing to the parties.

7. While highlighting his submissions, the learned counsel for the petitioner relied on the judgment of the Coordinate Bench of this Court in *Ankush Achutrao Raut & Others Versus State of Maharashtra & Others* [2022(1) Mh.L.J. 202] and submitted that there is no material to conclude that the petitioner has himself engaged in any particular acts of misappropriation causing loss to the Gram Panchayat and as such there is no illegality attracting Section 39(1) of the Act of 1959. The position of law laid down in this judgment is not disputed. In the instant case, the Authorities have duly considered the report of the Chief Executive Officer and have concurrently found that the petitioner has been consistently remiss in his duties as Sarpanch of the Gram Panchayat. As such, in view of the persistent remiss in the discharge of work as Sarpanch, the inferences drawn by the Authorities do not at all appear to be arbitrary or irrational on any count. The judgment relied upon by the counsel for the petitioner in *Ankush Achutrao Raut & Others* (supra) is thus of no assistance.

8. Having regard to the above mentioned factual and legal aspects, no indulgence is warranted with the impugned orders under Article 227 of the Constitution of India. The writ petition is accordingly dismissed with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)