



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

WRIT PETITION NO. 2331 OF 2025

Priti Manoj Bundile, Aged about 35 years, Occupation-
Household, R/o Mahuli Jahagir, Tah. And District Amravati.

PETITIONER

VERSUS

1. Hon'ble Minister, Rural Development,
Mantralaya, Mumbai-32.
2. The Additional Commissioner, Amravati Division, Amravati.
3. The Chief Executive Officer, Zilla Parishad, Amravati.
4. The Secretary, Gram Panchayat, Mahuli Jahagir,
Tahsil and District Amravati.
5. Sudhir Krushnarao Bijwe, Aged about 58 years,
Occupation-Agriculturist, R/o Mahuli Jahagir,
Tahsil and District Amravati.

RESPONDENTS

Shri N.A. Gawande, Counsel for the petitioner.
Shri S.V. Narale, Assistant Government Pleader for the respondent nos.1 and 2.
Shri J.B. Kasat, Counsel for the respondent no.3.
Shri B.J. Lonare, Counsel for the respondent no.4.
Shri R.N. Ghuge, Counsel for the respondent no.5.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE ON WHICH ARGUMENTS WERE HEARD : SEPTEMBER 29, 2025

DATE ON WHICH JUDGMENT IS PRONOUNCED : NOVEMBER 04, 2025

JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with consent of the counsel for the parties.

2. Invoking powers under Article 227 of the Constitution of India, the petitioner has assailed the orders passed by the Additional Commissioner under Section 39(1) of the Maharashtra Village Panchayats Act, 1959 (for short, 'the Act of 1959') which is upheld by the Hon'ble Minister thereby disqualifying the petitioner as Member and Sarpanch of the Gram Panchayat.

3. The crucial issue involved in the instant petition is as to whether the petitioner who has been arrayed as an accused in an offence registered against her and her husband under Sections 7, 7(A) and 12 of the Prevention of Corruption Act, 1988 could be disqualified as Member and Sarpanch of the Gram Panchayat, even in absence of any material to show the acceptance of bribe amount by the petitioner.

4. The factual matrix leading to the filing of the instant petition is succinctly stated below:-

The petitioner was elected as member of Gram Panchayat Mahuli Jahangir, Taluka and District Amravati, in the elections held on 15.01.2021. The elections for the post of Sarpanch and Upa-Sarpanch were held on 16.02.2021 and the petitioner was elected as Sarpanch. The term of Gram Panchayat is from 16.02.2021 to 15.02.2026. While the petitioner was holding the post of Sarpanch, on the basis of a complaint lodged by one Rambhau Ganesh Mondhe, First Information Report came to be registered against her and her husband for offence under Sections 7, 7(A) and 12 of the Prevention of Corruption Act, 1988. In the said report, it was alleged by the complainant that husband of the petitioner has demanded an amount of Rs.4,000/- for issuance of an experience certificate to be signed by the Sarpanch, which post was held by the petitioner. The report was lodged on 25.09.2023, and the verification of demand was conducted on 26.09.2023. Thereafter, the trap was conducted on 27.09.2023 in which the husband of petitioner was caught red-handed while accepting the bribe amount of Rs.4,000/- and accordingly, the offence was registered against the petitioner and her husband.

5. In this background, the respondent no.5, who is a voter and resident of the said village filed an application under Section 39(1) of the Act of 1959 before the Additional Commissioner seeking removal of the petitioner from the post of Sarpanch. Taking cognizance of the application, the Additional Commissioner directed the Chief Executive Officer to conduct an enquiry and submit its report. Accordingly, the Chief Executive Officer submitted its report dated 09.01.2024 under Section 39(1) of the Act of 1959. By considering the report, the Additional Commissioner passed the final order on 07.08.2024 and the petitioner came to be disqualified. Feeling aggrieved by this order, the petitioner filed an appeal under Section 39(3) of the Act of 1959 before the Hon'ble Minister, which came to be rejected by order dated 12.03.2025. The petitioner has raised challenge to both these orders by way of instant petition.

6. The main thrust of submissions advanced by Shri N.A. Gawande, learned counsel for petitioner rests on the contention that there is no material to prove the acts of demand or acceptance of bribe by this petitioner and mere allegations of demand and acceptance by her husband cannot be a reason to disqualify the petitioner as Member and Sarpanch of the Gram Panchayat. It is submitted that inference drawn by the Additional Commissioner is based on surmises and the drastic decision of disqualifying the democratically elected Member is unsustainable in law. It is the case of the petitioner that the complaint is made against her out of political rivalry and she is falsely implicated. The counsel for the petitioner also submitted that the proceedings were conducted before the Additional Commissioner by changing the dates of hearing on several occasions and without affording proper opportunity of hearing to the petitioner. It is

submitted that mere registration of the First Information Report under the provisions of Prevention of Corruption Act does not amount to any misconduct, much less a disgraceful conduct, and the invocation of provisions of Section 39(1) of the Act of 1959 was unwarranted.

In support of his submissions, learned counsel for the petitioner placed heavy reliance on a judgment of Coordinate Bench of this Court in **Writ Petition No.899 of 2023 [*Rupali Dinesh Kale Versus The State of Maharashtra & Others*]** and submitted that in an identical fact situation the disqualification of a Member of Gram Panchayat was set aside by the Court, despite registration of an offence under the Prevention of Corruption Act, 1988. By attempting to draw an analogy of the reasoning, learned counsel for the petitioner submitted that in absence of any conviction of the petitioner, she cannot be disqualified as Member or Sarpanch of the Gram Panchayat.

7. Per contra, learned learned Assistant Government Pleader as well as respective counsel for the respondents have made elaborate submissions opposing the petition. By inviting attention to the reasons recorded by the Additional Commissioner and the Hon'ble Minister, learned Assistant Government Pleader justified the impugned orders and submitted that the commissioner has rightly invoked powers under section 39(1) of the Act of 1959, which does not warrant interference on any count.

Shri R.N. Ghuge, learned counsel for respondent no.5 strenuously submitted that in view of the registration of the First Information Report against the petitioner and her husband and the entire conduct on their part, invocation of powers under Section 39(1) of the Act of 1959 was necessitated. He submitted that the husband of the petitioner was caught

red-handed while accepting bribe of Rs.4,000/- for issuing an experience certificate to be signed by the Sarpanch and without support of the petitioner, her husband could not have made any demand and as such the implication of the petitioner in the serious offence is a ground attracting her disqualification as Member and Sarpanch of the Gram Panchayat. He also submitted that in view of the nature of the act committed by the petitioner leading to an offence, an action for removal from Office was warranted and the Additional Commissioner has rightly passed the order based on his subjective satisfaction, which needs no interference on any count. In support of his submissions, reliance is placed on the judgment of the Coordinate Bench of this Court in ***Dr. Narendra Purushottam Ingole Versus Hon'ble State Minister, Village Development Department & Others*** [2019(3) Mh.L.J.368].

8. Learned counsel for the respective parties have made elaborate submissions on rival contentions and the same fall for my consideration.

9. The undisputed facts relevant for considering the controversy are that the petitioner was holding the post of Sarpanch during the period when the offence came to be registered against her and her husband. The petitioner's husband was caught red handed while accepting bribe of Rs.4,000/- for issuing an experience certificate. The experience certificate was to be issued by the petitioner who was holding the post of Sarpanch. The verification of demand was conducted by the officials of the Anti-Corruption Bureau, which confirmed the act of demand, as has been recorded in the report dated 09.01.2024 submitted by the Chief Executive Officer. Based on this factual set up, the Additional Commissioner has held

that the petitioner indulged in disgraceful conduct and incurred the disqualification. The Hon'ble Minister has concurred with the decision of the Additional Commissioner and upheld the disqualification.

10. As such, even considering the undisputed facts, it is clear that the actual demand of bribe and acceptance of the amount of illegal gratification is by the husband of the petitioner. There is no material to show that the petitioner has actually made any demand or has accepted the amount of bribe. However, it is very crucial to note that the demand of bribe was made by the husband for performing an act which was to be essentially performed by the petitioner, who was holding the post of Sarpanch. It is undisputed that the demand of bribe was made for issuance of an experience certificate, which was to be signed and issued by the Sarpanch of the Gram Panchayat. As such, the husband of the petitioner could not have independently made any demand of money, had there been no express or implied consent from the petitioner. As such, even in absence of any material to establish demand or acceptance of money by the petitioner, the factual circumstances clearly show that the petitioner in all probabilities has consented expressly or impliedly for the demand of bribe. Thus, the question which arises for consideration is as to whether under such circumstances in absence of any clear evidence of demand or acceptance by the petitioner, she could still be disqualified under Section 39(1) of the Act of 1959?

11. A perusal of the provisions of Section 39(1) of the Act of 1959 shows that any member or any Sarpanch or Upa-Sarpanch who has been guilty of misconduct in the discharge of his duties, or of any disgraceful

conduct, is liable to be removed from the office. For ready reference, the provision of Section 39(1)(i) of the Act of 1959 is reproduced below:-

*“39. Removal from office.– (1) The Commissioner may:-
(i) remove from office any member or any Sarpanch or Upa-Sarpanch who has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or of neglect of or incapacity to perform his duty, or is persistently remiss in the discharge thereof. A Sarpanch or an Upa-Sarpanch so removed may at the discretion of the Commissioner also be removed from the panchayat,”*

On a careful reading of the provision, it becomes clear that the Commissioner is empowered to remove any Member or Sarpanch or Upa-Sarpanch, who has been found guilty of misconduct in the discharge of his duties or of any disgraceful conduct etc. and the powers of removal are to be exercised at the discretion of the Commissioner. It is crucial to note that Section 14 of the Act of 1959 also contains a provision with respect to disqualifications on account of various other situations. Section 14(1)(a) of the same also deals with the situation of disqualification in case a person is convicted of an offence. In the instant case, there is no conviction for any offence. However, the disqualification is ordered on the basis of registration of First Information Report against the petitioner and her husband. Thus, the issue is whether the petitioner can be said to have been indulged in any misconduct or disgraceful conduct as required under Section 39(1) of the Act of 1959, to such an extent of incurring disqualification to hold the post of Member or Sarpanch? On careful consideration of the provisions of Section 39(1) of the Act of 1959, it is clear that there is no necessity of any conviction to be the basis for disqualification. The nature of the act committed by the Member or Sarpanch while in office has been given the central focus warranting an

action under Section 39(1) of the Act of 1959. The provision clearly shows that subjective satisfaction of the Commissioner about the act being a 'disgraceful conduct' is of primary importance.

12. The position of law in this regard is very well elucidated by the judgment in ***Dr. Narendra Purushottam Ingole*** (Supra) and the relevant paragraphs from the said judgment are reproduced below:-

"10. The expression "disgraceful conduct" as employed in section 39(1) of the said Act has to be construed keeping in mind the object sought to be achieved by said provision. The removal of an elected member or Sarpanch or Upa-Sarpanch from office is a drastic action and the exercise of such power is based on the subjective satisfaction of the Commissioner in the light of any disgraceful conduct of the concerned member, Sarpanch or Upa-Sarpanch. In a way, the power of removal has been conferred on the Commissioner for being exercised in a situation which otherwise is not a disqualification prescribed under the said Act. For example, a member who is being proceeded against in a Court of law as accused for a serious or heinous crime would not be disqualified until he is so convicted for being disqualified under section 14(1) of the said Act. But if the alleged offence is committed during the term as member, Sarpanch or Upa-Sarpanch and in the opinion of the Commissioner, such act amounts to disgraceful conduct on his part, then to meet such situation which though does not become a disqualification till conviction could still be a reason to remove such member, Sarpanch or Upa-Sarpanch from the post held by him which would make him ineligible to contest for such post for the remainder of the term.

In other words, a situation has been contemplated which empowers the Commissioner to remove a member or a Sarpanch or Upa-Sarpanch from the post held by him if it is found that such elected member is guilty of either misconduct in the discharge of his duties or of any disgraceful conduct for the remainder of his term.

12. *In the present case the report of the Chief Executive Officer indicates that pursuant to a complaint lodged by one Narayan Gaikwad, the petitioner is alleged to have demanded an amount of Rs.2500/- by way of illegal gratification for issuing a notice to one Shri Lohakare on account of the construction erected by him. The*

said amount was demanded for taking action in that matter by the petitioner in his capacity as the Sarpanch. The petitioner was trapped red-handed in that process after which an offence under sections 7 and 13 of the Prevention of Corruption Act, 1988 came to be registered against him. The petitioner was arrested in that process and the Chief Executive Officer in that background sought permission to make an enquiry under section 39(1) of the said Act against the petitioner. The action in question is based on the arrest of the petitioner pursuant to a trap led by the Anti-Corruption Bureau on the basis of a complaint received by it. The act of demanding illegal gratification and subsequent arrest by the Anti-Corruption Bureau has been treated as an act amount to disgraceful conduct on the part of the petitioner warranting his removal.

13. It is to be seen that action of removal has been initiated against the petitioner on account of his aforesaid conduct. The same is based on the powers given to the Commissioner under section 39(1) of the said Act. As noted above, there is a distinction between a disqualification prescribed which disqualifies a person either from becoming a member of the Panchayat or continuing as a member of Panchayat. Removal from office under section 39(1) does not require such conviction and it is based on the conduct of the person concerned while he is a member or Sarpanch or Upa-Sarpanch. What is to be seen is the commission of an act by such person amounting to disgraceful conduct. The said act in question may lead to a future conviction or acquittal, but for the purposes of section 39(1) of the said Act that aspect is not relevant. The nature of the act committed while in office has been given importance warranting action for removal from office. In other words, it is the subjective satisfaction of the Commissioner who has been granted such power to remove a member or a Sarpanch or a Upa-Sarpanch who has been found guilty of such disgraceful conduct.”

13. Applying the legal position, in the instant case, it has to be seen that the Additional Commissioner has inferred that the conduct of petitioner who appears to have impliedly or expressly supported the demand of illegal gratification by her husband, falls in the category of the term ‘disgraceful conduct’. Based on the material before it, the Authority has arrived at its own conclusion to disqualify the petitioner under Section

39(1) of the Act of 1959. As such, it is clear that the decision of the Commissioner is based on his own subjective satisfaction, which does not appear to be irrational or arbitrary.

14. At this juncture, it is fruitful to refer to the enunciation of law as made by the Hon'ble Supreme Court in ***Ravi Yeshwant Bhoir Versus District Collector, Raigad & Others*** [AIR 2012 SC 1339]. While dealing with the concept of disgraceful conduct in paragraph 15, it is observed as under:-

“15. The expression ‘disgraceful conduct’ is not defined in the statute. Therefore, the same has to be understood in given dictionary meaning. The term ‘disgrace’ signifies loss of honour, respect or reputation, shame or bring disfavour or discredit. Disgraceful means giving offence to moral sensibilities and injurious to reputation or conduct or character deserving or bringing disgrace or shame. Disgraceful conduct is also to be examined from the context in which the term has been employed under the statute. Disgraceful conduct need not necessarily be connected with the official duty of the office-bearer. Therefore, it may be outside the ambit of discharge of his official duty.”

15. On considering the factual aspects of the case, it is clear that the demand of illegal gratification was although made by the husband of the petitioner, same cannot be without her support since she was holding the post of Sarpanch. The demand of money was apparently for performance of an act in the exclusive domain of the Sarpanch. The contention that there is no material to establish the demand by the petitioner can be a part of defence in the criminal case, however, the same is of no importance for diluting the act of the petitioner to be a disgraceful conduct. Further, issue as to whether such was the *modus operandi* of the petitioner and her husband would be a matter of trial of the criminal case. For the purpose of considering the issue of disqualification based

on the subjective satisfaction of the Commissioner, the primary issue is whether the Commissioner has exercised his discretion perversely or irrationally. On a careful reading of the order passed by the Additional Commissioner, there appears no perversity much less any irrationality.

16. As regards the reliance placed by the counsel for petitioner on the judgment in ***Rupali Dinesh Kale*** (supra), it is crucial to note that there was a failure of trap in the said case and the complaint was found to be false. It was found that the Anti-Corruption Bureau was not clear about any demand being made by the petitioner therein and therefore, this Court had concluded that the disqualification was unwarranted. The said case is clearly distinguishable from the case in hand. In the instant case, the demand by the petitioner's husband and acceptance of bribe amount is proved. The demand was apparently made for issuance of an experience certificate, which could have been issued only by the petitioner who was holding the post of Sarpanch. As such the implied consent of the petitioner for the demand of bribe, can be said to be a relevant factor for the Commissioner to pass an order of disqualification under Section 39(1) of the Act of 1959. As such, the judgement in ***Rupali Dinesh Kale*** (supra) is of no assistance to the petitioner.

17. Although the counsel for petitioner submitted that the Additional Commissioner has passed the order without affording proper opportunity of hearing to the petitioner, it appears from the record and even from the order that opportunity of hearing was afforded to all the parties, including the petitioner. The petitioner has participated in the hearing of the matter at every stage of the proceedings. It is also revealed that

the petitioner has challenged an order passed by the Commissioner, rejecting her request for supply of documents *vide* Writ Petition no.3057 of 2024 and in view of pendency of the writ petition, the petitioner also submitted adjournment applications before the Additional Commissioner. However, the petitioner thereafter did not pursue with the petition and the matter was heard by the Additional Commissioner at the stage of final hearing. As such, the petitioner has participated in the proceedings and has even made her submissions at the stage of final hearing. There is nothing on record to show that there was denial of opportunity of hearing to the petitioner. There is nothing on record to show that the dates of hearing were changed by the Commissioner. On the contrary, it appears that the petitioner has raised several contentions and even filed petitions during pendency of the proceedings which was an attempt to prolong the decision of the case. In view of this, it is clear that the contentions raised alleging denial of opportunity of hearing are not at all appealing.

18. Having regard to the overall factual and legal aspects, I am of the firm view that indulgence under Article 227 of the Constitution of India is not at all warranted in the instant case. The impugned order passed by the Additional Commissioner based on his subjective satisfaction, does not appear to be arbitrary or irrational. The conduct on the part of the petitioner in supporting the demand of illegal gratification by her husband is rightly held to be a disgraceful conduct, thereby attracting disqualification under Section 39(1) of the Act of 1959. The petitioner has failed to demonstrate any perversity or illegality with the impugned orders. The writ petition, therefore, deserves to be dismissed.

19. In that view of the matter, no interference is called for with the orders passed by the Additional Commissioner and the Hon'ble Minister. The writ petition stands dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)

APTE

At this stage, a request is made by the learned counsel for the petitioner for continuation of the interim relief, which was granted by this Court and which operated during the pendency of the instant petition. The request for continuation of the interim relief is strongly opposed by the learned counsel for the respondents.

However, considering the fact that the interim relief was operating during the pendency of the instant petition, same is continued for a period of three weeks from today. The interim relief shall cease to operate on expiry of the period of three weeks.

(PRAFULLA S. KHUBALKAR, J.)

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