



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

Writ Petition No. 3116 of 2025

[Sarita w/o Rajesh Pathre and ors ..vs.. Divisional Commissioner,
Amravati Division and ors.]

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

Court's or Judge's orders

Mr. N. A. Gawande, Advocate for the petitioners
Mr. N. S. Autkar, AGP for the State

CORAM : ANIL L. PANSARE J.

DATED : 20-06-2025

Heard.

Learned counsel for the petitioners submits that 5 out of 9 members have tendered resignation on 20-8-2024 in order to ensure dissolution of panchayat in terms of Section 145(1A) of the Maharashtra Village Panchayats Act, 1959.

The argument is that the law is well settled on this point that where the resignation is tendered so that the panchayat should be resolved, the authority concerned should, instead of passing order of dissolution of panchayat, conduct bye-election for vacant posts. The judgments to that effect were cited before the authorities below, but to no avail.

My attention was invited to the judgment passed by the Division Bench of this Court in the case of *Shivaji Maruti Shingate Vs. State of Maharashtra and ors. [2007(5) Mh.L.J. 109]* wherein the Division Bench, while considering the resignation submitted by some of the members of panchayat, held that power to dissolve is not mandatory but directory and that the State Government is not bound to dissolve the panchayat unless a situation has arisen where the functions of the panchayat cannot be carried out except by dissolution and holding fresh elections. Thus, it appears that unless and until

there is a situation that would require dissolution of panchayat, effort should be made to continue panchayat by holding bye-election.

By the impugned order, respondent no. 1 has not only dissolved panchayat but has appointed administrator.

Issue notice, returnable in three weeks.

If the administrator has not taken charge till today, the same shall not be taken till next date and in that eventuality, the petitioner shall continue to function Village Panchayat, Jawala-Sahapur, Tah. Chandur Bazar, District Amravati.

Learned Assistant Government Pleader waives notice for respondent no. 1.

In addition to usual mode of service, the petitioners shall serve the respondents by Speed Post and shall file affidavit of service.

The petitioners shall comply with the practice note no. 14 of the Bombay High Court Appellate Side Rules, 1960, particularly Clause (5) thereof.

(Anil L. Pansare, J.)