



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

WRIT PETITION NO.3121 OF 2025

Smt. Sarla Dadarao Ingale
Age 53 Years, Occ.Housewife,
R/o Kholapur, Tq. Bhatkuli,
Dist. - Amravati

... Petitioner

Versus

1. State of Maharashtra through,
The Hon'ble Minister, for Rural
Development and Panchayat Raj,
Mantralaya, Mumbai-400032.
2. The Additional Divisional Commissioner,
Amravati Division, Amravati.
3. The Chief Executive Officer,
Zilla Parishad, Amravati.
4. The Block Development Officer,
Panchayat Samiti, Bhatkuli,
Distt. Amravati.
5. The Gram Panchayat, Kholapur
through, It's Secretary Tq.Kholapur.
6. SK. Najimoddin Sk. Mohiyoddin
R/o Gram Panchayat, Kholapur.
7. Sau.Naj Bano Gaffar Shaha
R/o Gram Panchayat, Kholapur.
8. Shri.Sunil Sitaram Tayade
R/o Gram Panchayat, Kholapur.
9. Sau.Alka Nilesh Parde
R/o Gram Panchayat, Kholapur.

10. Ashok Bhimrao Lamse
R/o Gram Panchayat, Kholapur.
11. Sau. Shital Shankar Aaware
R/o Gram Panchayat, Kholapur.
12. Shri.Mohammad Ahefaz Mhd. Najakat
R/o Gram Panchayat, Kholapur.
13. Sau.Nirmala Subhash Chakre
R/o Gram Panchayat, Kholapur.
14. Sau. Shamsad Bano Nasir Khan
R/o Gram Panchayat, Kholapur.
15. Shri. Ravindra Devidas Tapke
R/o Gram Panchayat, Kholapur.
16. Sau.Chhaya Ram Chakre
R/o Gram Panchayat, Kholapur.
17. Sau. Nasrin Jh Nasir Khan
R/o Gram Panchayat, Kholapur.
18. Mohammad Harun Sk.Ismail,
All R/o Gram Panchayat, Kholapur.
Tq.Bhatkuli. Dist Amravati .Respondents

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Mr. Anand Deshpande, Advocate with Advocates G.R.Bhake,
A.V.Gudadhe for petitioner.

Mr. A.G.Mate, AGP for respondent nos.1 and 2.

Mr. P.A.Kadu, Advocate for respondent nos. 6 to 17.

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CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 19th AUGUST, 2025.

ORAL JUDGMENT

1. Heard Mr. Anand S.Deshpande, learned counsel for the petitioner, Mr. A.G.Mate, learned AGP for respondent nos.1 and 2 and Mr. P.A.Kadu, Advocate for respondent nos. 6 to 17.
2. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.
3. The petitioner has challenged order passed by the respondent no.1-Hon'ble Minister for Rural Development and Panchayat Raj, thereby maintaining the orders passed by the Additional Commissioner, Amravati in proceedings under Section 39 (3) of the Maharashtra Village Panchayats Act, 1959 ("the Act" for short).
4. Although the learned counsel for the petitioner raised several grounds challenging the impugned order, however, primarily contended that the order passed by the Hon'ble Minister is unsustainable since it is a common order disposing of two different appeals, recording reasons with respect to only one appeal. He, therefore, submitted that the impugned order is unsustainable on account of absence of reasons and non-consideration of vital issues raised in one of the appeals under Section 39(3) of the Act. He submitted that the petitioner, who is Sarpanch of Gram Panchayat, Kholapur is ordered to be disqualified by virtue of provisions under

Section 39(1) of the Act on alleged encroachment on government land by virtue of order dated 06.01.2025 passed by the Additional Commissioner, Amravati. Apart from this, in a separate proceedings initiated under Section 39(1) of the Act, the petitioner is ordered to be disqualified by order dated 07.02.2025 passed by the Additional Commissioner, Amravati on account of alleged misappropriation of money because of unnecessary expenses on behalf of the Gram Panchayat. Both these orders were subjected to challenge by the petitioner by way of separate appeals under Section 39(3) of the Act before the Hon'ble Minister, in view of the distinct subject matters and separate causes of action. By advertng attention of this Court to the impugned order, it is pointed out that the Hon'ble Minister has passed order dated 08.05.2025 by referring to only one appeal bearing Appeal No.V.P.M.-2025-Case no.57-PRa-06, and by giving consideration only to the contentions in the appeal challenging the order dated 07.02.2025. It is submitted that the impugned order is passed maintaining both the orders passed by the Additional Commissioner in two separate proceedings. He submitted that the impugned order is unsustainable in law on this count alone.

5. While opposing the writ petition, learned AGP for the respondent nos.1 and 2 and learned Advocate Kadu for respondent

nos.6 to 17 submitted that the impugned order refers to both the orders passed by the Additional Commissioner i.e. order dated 06.01.2025 and 07.02.2025 in two proceedings and since the contentions of the parties are identical, there is no illegality in passing the common order.

6. As regards the appeal challenging the order dated 06.01.2025 passed by the Additional Commissioner, it is submitted that Hon'ble Minster has concurred with the reasoning of the Additional Commissioner and therefore the order was not required to be substantiated by way of elaborate reasons. In support of his submissions, he relied upon the judgment of the Hon'ble Supreme Court in the matter of *S.N.Mukherjee Vs. Union of India*, reported in (1990) 4 Supreme Court Cases 594, in which it is observed that the appellate or revisional authority, if it affirms an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge.

7. To controvert these submissions, Advocate Anand Deshpande, learned counsel for the petitioner, relied upon recent judgment of the Hon'ble Supreme Court in the matter of *Basudev Datta Vs. State of West Bengal*, reported in 2024 SCC Online SC 3616 and invited attention of this Court to the principles

summarized with regard to necessity of recording reasons. He also relied upon unreported judgment of the Division Bench of this Court in Writ Petition No.9708/2010 in the matter of **Smt.Chhaya Jagan Kale Vs The State of Maharashtra and others** (decided on 17/02/2011). Counsel for the petitioner further placed reliance on the judgment in the matter of *Seethamal and another Vs. Narayanasamy and others*, reported in 2023 DGLS (SC) 974, and vehemently submitted that having regard to the peculiar nature of the proceedings before the Hon'ble Minister, the non-consideration of submissions in the respective appeals rendered the findings unsustainable in law.

8. In view of rival submissions of the respective parties, the legality of the impugned order on account of irregularity in passing a common order while deciding the two separate appeals is hereby tested.

9. It has to be noted that the petitioner had filed two distinct appeals under Section 39(3) of the Act, one raising challenge to the order dated 06.01.2025 passed by the Additional Commissioner in which the issue of disqualification on account of encroachment on government land was under consideration. The other appeal under Section 39(3) of the Act was filed challenging

the order dated 07.02.2025 in which the issue about alleged misappropriation of amount was subject matter of challenge. As such, two separate proceedings with respect to different challenges were filed before the Hon'ble Minister and the grounds raised in these two appeals were required to be given due consideration. A perusal of the impugned order shows that the Hon'ble Minister has passed the impugned order in proceedings bearing Appeal No.57 and a perusal of cause title shows that the respondents in one of the appeals (appeal challenging the order dated 07.02.2025) are mentioned as parties to the appeal. It is pertinent to note that the respondents in the appeal challenging order dated 06.01.2025 are not mentioned in the array of parties and thus it is clear that they were not heard. Apart from absence of reference to the number of the proceedings of the appeal challenging the order dated 06.01.2025, there is no consideration of the issues raised in the said appeals. It is clear that there were two separate appeals raising distinct challenges which required separate consideration, however, the Hon'ble Minister has given consideration only to the contentions of one of the appeals i.e. the appeal challenging the order dated 07.02.2025, however, passed final orders with respect to both the appeals. In my view, this is a glaring irregularity in the conduct of

the proceedings and having regard to non-consideration of the issues raised in the appeal challenging the order dated 06.01.2025, the impugned order is unsustainable on this count.

10. The legal position laid down in *S.N.Mukherjee Vs. Union of India* (supra) is not in dispute. However, in the present case, apart from the absence of reasons while deciding the appeal challenging the order dated 06.01.2025, there is non-consideration of the issues raised and there is no hearing to parties of connected appeal proceedings. Therefore, with due respect, the said judgment of Hon'ble Supreme Court is of no assistance to the counsel for the respondents.

11. In view of the nature of issues involved in two distinct appeals, it was necessary to give due consideration to the respective issues. Although in a given case, separate proceedings can be clubbed, however, in the instant matter by referring to only one appeal bearing no.57, proceedings of two distinct appeals are decided by final order.

12. In view of the aforesaid discussion, the reliance placed by the learned counsel for the petitioner on the judgment in the matter of *Seethamal and another Vs.Narayanasamy and others* (supra) is appropriate.

13. Having regard to the aforesaid considerations and particularly in view of the glaring irregularity of deciding two distinct appeals by a common order, the impugned order passed by the Hon'ble Minister deserves to be quashed and set aside. As the matter has been considered only from this limited perspective, this Court has refrained from recording any findings on the merits of the appeals.

14. In view of the above, the order dated 08.05.2025 passed by the Hon'ble Minister is hereby quashed and set aside. The matter is remanded to the Hon'ble Minister for fresh decision on both the appeals, after affording due opportunity of hearing to the parties. The parties shall appear before the Hon'ble Minister within a period of two weeks from today and place a copy of this order before it and cooperate for further hearing of the appeals.

15. Rule is made absolute in the aforesaid terms. The Writ petition is accordingly disposed of. There shall be no order as to costs.

(PRAFULLA S. KHUBALKAR, J)

Mukund Ambulkar