



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD  
WRIT PETITION NO.12807 OF 2025**

- 1] Savakar S/o Bhausahab Shirsath,  
Age: 41 years, Occu: Sarpanch  
R/o. Sirasgaon, Tq. Vaijapur, Dist. Chhatrapati  
Sambhajinagar.
- 2] Dipali W/o Tatyasaheb Nimbalkar,  
Age: 43 years, Occu: Member,  
R/o. Sirasgaon, Tq. Vaijapur, Dist. Chhatrapati  
Sambhajinagar.
- 3] Sonali W/o Rameshwar Varade,  
Age: 43 years, Occu: Member,  
R/o. Sirasgaon, Tq. Vaijapur, Dist. Chhatrapati  
Sambhajinagar.
- 4] Vijay S/o Vishwanath Varade,  
Age: 40 years, Occu: Member,  
R/o. Sirasgaon, Tq. Vaijapur, Dist. Chhatrapati  
Sambhajinagar. ..Petitioners

Versus

- 1] The Hon'ble Minister,  
Rural Development Department,  
Mantralaya, Mumbai-400 032
- 2] The Divisional Commissioner,  
Chhatrapati Sambhajinagar Division,
- 3] The Chief Executive Officer,  
Zilla Parishad, Chhatrapati Sambhajinagar,  
Dist. Chhatrapati Sambhajinagar.
- 4] The Block Development Officer,  
Panchayat Samiti, Vaijapur,  
Tq. Vaijapur, Dist. Chhatrapati Sambhajinagar.
- 5] Gram Sevak,  
Gram Panchayat Sirasgaon,  
Tq. Vaijapur, Dist. Chhatrapati Sambhajinagar.
- 6] Babasaheb S/o. Anand Salve (Died)  
Through his Legal Heir,

Prashant S/o Babasaheb Salve,  
Age- Major, Occu.: Agril,  
R/o. Sirasgaon, Tq. Vaijapur, Dist. Chhatrapati  
Sambhajinagar.

..Respondents

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Mr. R. V. Gore, Advocate for Petitioners.  
Mr. S. A. Gaikwad, AGP for Respondent Nos.1 and 2.  
Mr. S. R. Dheple, Advocate for Respondent No.3.  
Mr. M. B. Ubale, Advocate for Respondent No.5.  
Mr. H. D. Deshmukh, Advocate for Respondent No.6.

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**CORAM : S. G. CHAPALGAONKAR, J.**

**RESERVED ON : 05<sup>th</sup> JANUARY, 2026.**

**PRONOUNCED ON : 21<sup>st</sup> JANUARY, 2026.**

**JUDGMENT:-**

1. Rule. Rule made returnable forthwith. By consent of parties, matter is taken up for final hearing at the admission stage.
2. The petitioners impugns judgment and order dated 26.09.2025 passed by Hon'ble Minister in व्हीपीएम-२०२४/प्र.क्र. १३१/पंरा-६, thereby upholding order dated 03.09.2024 passed by Divisional Commissioner, Chhatrapati Sambhajinagar in Case No.58, whereby petitioners have been removed from office of members of Village Panchayat under Section 39 of Maharashtra Village Panchayat Act (for short 'MVP Act').
3. In February 2021 petitioners were elected as members of Grampanchayat, Sirasgaon, Tq. Vaijapur, Dist. Chhatrapati Sambhajinagar. The petitioner no.4 was elected as Up-Sarpanch. The respondent no.6 moved an application under Section 39(1) of MVP Act before respondent no.2/Divisional Commissioner praying

for removal of petitioners from office of member of Grampanchayat alleging that petitioners have directly or indirectly protecting encroacher and passed Resolution in meeting dated 29.12.2021 permitting disposal of building material.

In pursuance to aforesaid complaint, respondent no.3/Chief Executive Officer, Zilla Parishad caused enquiry and submitted its report dated 09.01.2024 to respondent no.2. The Divisional Commissioner relying upon aforesaid enquiry report held that in meeting dated 29.12.2021 illegal Resolution has been passed for auction of old material of school building. The said meeting was held in absence of Sarpanch. Eventually, passed impugned order of removal of petitioners from office of members of Village Panchayat. The petitioners filed Appeal before Hon'ble Minister under Section 39(1) of MVP Act. However, Hon'ble Minister rejected Appeal. Hence, this Writ Petition.

4. Mr. Gore, learned Advocate appearing for petitioners would submit that petitioners are wrongly held guilty of misconduct in terms of Section 39 of MVP Act. The auction of debris/building material was conducted as per estimate prepared by Zilla Parishad. No loss has been caused to Village Panchayat on account of Resolution of Village Panchayat. The petitioners, who are duly elected as members of Village Panchayat cannot be casually removed by administrative action. The allegations against

petitioners does not fit within definition of misconduct or disgraceful behaviour contemplated under Section 39 of MVP Act. He would further submit that Divisional Commissioner relied upon enquiry report dated 09.01.2024 submitted by Chief Executive Officer. The observations in report are not sufficient to make out case for removal of petitioners from post of member.

5. The learned Advocates appearing for respondents supports impugned order.

6. Having considered submissions advanced by learned Advocates appearing for respective parties and on perusal of material tendered into service before this Court, core issue that requires consideration in present Writ Petition is whether alleged act of petitioners, thereby passing Resolution in meeting dated 29.12.2021 and 28.10.2022 is sufficient to hold them liable for removal under Section 39 of MVP Act. Section 39 of MVP Act states as under:

***“39. Removal from office.***

*<sup>1</sup>[(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 ; or*

*(ii) remove from office the member, Sarpanch or, as the case may be, Upa-Sarpanch, if not less than twenty per cent. of*

*the total number of voters in the village who have paid all dues of the panchayat regarding taxes on buildings and lands and water charges, make a complaint that the annual accounts and the report of the expenditure incurred by the panchayat on the development activities are not placed before the Gram Sabha; and the information thereof is not displayed on the notice board as required by sub-section (1) or (1A) of section 8 :*

*Provided that, no such person shall be removed from office unless, in case of clause (i), the Chief Executive Officer or in case of clause (ii), the Deputy Chief Executive Officer as directed by the Chief Executive Officer; under the orders of the Commissioner, holds an inquiry after giving due notice to the panchayat and the person concerned; and the person concerned has been given a reasonable opportunity of being heard and thereafter the Chief Executive Officer or, as the case may be, the Deputy Chief Executive Officer concerned, though the Chief Executive Officer, submits his report to the Commissioner. The inquiry officer shall submit his report within a period of one month:*

*Provided further that, the Commissioner shall, after giving the person concerned a reasonable opportunity of being heard, take a decision on the report submitted by the Chief Executive Officer or, as the case may be, the Deputy Chief Executive Officer, within a period of one month from the date of receipt thereof.]”*

7. Perusal of aforesaid provision would show that member of Village Panchayat can be removed from his office, if he has been found guilty of misconduct in discharge of his duty or in disgraceful conduct, or of neglect of or incapacity to perform his duty, or is persistently remiss in the discharge thereof.

8. Single Judge of this Court in case of **Ankush Achutrao Raut and Others Vs. State of Maharashtra and Others**<sup>1</sup> relying upon observations of Supreme Court in case of **State of**

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<sup>1</sup> 2022 (1) Mh.L.J. 202.

***Punjab Vs. Ram Singh***<sup>2</sup> observed that expression illegal, irregular and misconduct being relative terms are to be construed with reference to subject matter.

9. In absence of material on record to suggest that Resolution passed by members of Village Panchayat was with wrongful intention and results in loss to Grampanchayat, elected representatives cannot be removed unless allegations against members are sufficient to hold them guilty of misconduct.

10. In present case, petitioners are signatories to Resolution of Grampanchayat, whereby they permitted auction of debris of dilapidated school building. The enquiry report submitted by Chief Executive Officer nowhere suggests that impugned Resolution was any way act of misconduct on part of petitioners in discharge of their duties. Nothing is brought on record to show that Resolution was passed with ill-intention or for personal benefit of petitioners. The record indicates that Sub Divisional Engineer of Zilla Parishad (Works), Vaijapur has given general report regarding dismantling work of dilapidated school building, which was 50 years old and in totally damaged condition. The estimate of work demonstrates that total cost of debris material was Rs.1,04,074/-, whereas total cost of demolition was Rs.1,17,371/-. The upset value was assessed to minus Rs.13,297/-. It appears that, by Resolution supported by

petitioners, Village Panchayat was benefited. Therefore, conclusion drawn by Divisional Commissioner while holding petitioners guilty under Section 39(3) of MVP Act is without independent discussion on grounds of Appeal raised by petitioners.

11. The order of Hon'ble Minister sans requisite reasons. There is no basis for observations that petitioners colluded with Gram Sevak or misappropriated amount on the basis of Resolution permitting auction of debris of school building.

12. At this stage it is informed that after removal of petitioners, election of Sarpancha and Up-Sarpanch have been held.

13. In light of aforesaid facts, Writ Petition is **allowed** in terms of prayer Clause (B). However, this order would not affect election of Sarpanch and Up-Sarpanch that took place after removal of petitioners.

14. Rule is made absolute in above terms.

**(S. G. CHAPALGAONKAR)**  
**JUDGE**