



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO.13050 OF 2025
WITH
CIVIL APPLICATION NO.14185 OF 2025**

Pooja W/o Tanaji Mundhe,
Age: 26 yrs, Occup - Household,
Sarpanch, Grampanchayat Hiwarda Tq. Bhoom
Dist. Dharashiv
R/o Hiwarda Tq. Bhoom Dist. Dharashiv ..Petitioner
(Original Respondent No. 5)

Versus

1. The State of Maharashtra
Through: Its Principal Secretary,
Department of Rural Department,
Mantralaya, Mumbai – 32
2. The Hon'ble Minister,
Rural Development and Panchayat Raj Department,
Maharashtra State, Mantralaya,
Mumbai - 400 032
3. The Divisional Commissioner,
Chhaprapati Sambhajinagar
Division Chhatrapati Sambhajinagar
4. The Chief Executive Officer,
Zilla Parishad, Dharashiv
Tq. And Dist. Dharashiv
5. The Block Development Officer,
Panchayat Samiti, Bhoom
Tq. Bhoom Dist. Dharashiv
6. Village Development Officer/Gramsevak,
Grampanchayat Hiwarda
Tq. Bhoom Dist. Dharashiv
7. Lata W/o Shantilal Gore,
Age- 50 yrs, Occup- Household,
R/o Hiwarda Tq. Bhoom Dist. Dharashiv. ..Respondents
(Respondent No.7 is Original Appellant)

Mr. M. A. Shahane h/f Mr. A. S. More, Advocate for Petitioner.
Mrs. Lata Shanital Gore, Party in Person Respondent No.7.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 14th 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 petitioner take exception to order dated 28.10.2025 passed by Hon'ble Minister, Rural Development Department, Maharashtra State in Appeal No.VPM-2025/Pra.Kra.111/PAN.RA.6, whereby petitioner has been removed from post of Sarpanch under Section 39(1) of Maharashtra Village Panchayat Act (for short 'MVP Act').

3. The respondent no.7 initiated proceeding under Section 39(1) of MVP Act seeking removal of petitioner from post of Sarpanch/Member of Grampanchayat Hiwarda, Tq. Bhoom, Dist. Dharashiv. Eventually, report was called from Chief Executive Officer, Zilla Parishad, Dharashiv. Thereafter, proceeding was taken up in Grampanchayat Appeal No.238/2024 before Divisional Commissioner, Aurangabad under Section 39(1) of MVP Act, which has been decided on 30.05.2025. The Divisional Commissioner, Aurangabad declined to pass order of removal of petitioner, as no case was made out under Section 39(1) of MVP Act. It appears that, respondent no.7 obtained certified copy on 02.06.2025 and

filed Appeal No.238/2024 before Hon'ble Minister on 26.06.2025. The Hon'ble Minister allowed Appeal vide impugned order dated 28.10.2025 observing that petitioner is liable to be removed from post of Sarpanch/Member of Village Panchayat.

4. Mr. M. A. Shahane, learned Advocate appearing for petitioner submits that Hon'ble Minister entertained Appeal under Section 39(3) of MVP Act, although it was filed beyond prescribed period of limitation. He would submit that Hon'ble Minister does not possess power to condone delay or entertain Appeal filed beyond prescribed period of limitation. He would further submit that provision of Section 5 of Limitation Act does not apply to special/local law, hence, impugned order is without jurisdiction and liable to be quashed and set aside.

5. Section 39 of MVP Act prescribes that Commissioner may remove from office any member or any Sarpanch or Upa-Sarpanch, who has been guilty of misconduct in discharge of his duties, or of any disgraceful conduct, or of neglect of or incapacity to perform his duty, or is persistently remiss in discharge thereof. Sub-section (3) of Section 39 provides remedy of Appeal to aggrieved person against Commissioner's order passed under Sub-sections (1) or (2). Sub-section (3) of Section 39 of MVP Act reads thus:

“39. Removal from office.

(3) Any person aggrieved by an order of the Commissioner under sub-section (1) or (2) may, within a

*period of **fifteen days** from the date of the receipt of such order, appeal to the State Government and the Government shall decide the appeal within a period of one month from the date of receipt thereof.”*

6. Careful reading of aforesaid provision would show that aggrieved person can file Appeal to State Government within period of 15 days from date of receipt of such order. No provision is made in Act enabling extension of limitation period or condone delay in filing Appeal.

7. Perusal of record suggests that Divisional Commissioner had passed order under Section 39(1) of MVP Act on 30.05.2025. The respondent no.7 applied for certified copy on 02.06.2025 and on same day she has received the same. Therefore, limitation period for filing Appeal would expire on 15.06.2025. The record shows that respondent no.7 presented Appeal on 26.06.2025. As such, Appeal was beyond limitation period prescribed under Act.

8. Single Judge of this Court in case of ***Shri Umesh Tukaram Kamble and Ors. Vs. Shri Shamrao Sakharam Patil and Ors.***¹ observed as under:

“15. At this stage, it would be necessary to note that a Learned Single Judge of this Court has held in Shankar Sadu Pawar v. Babu Laxman Dalvi 1999 Vol. 101 (3) Bom. L.R. 689, that the Civil Judge, Junior Division who entertains an election petition under Section 15 of the Bombay Village Panchayats Act, 1958 is a persona designation and not a Court. Consequently, it has been held that in the proceedings before the Judge as a persona designata, the provisions of the Limitation Act, 1963 would

¹ 2008 (2) MhLJ 727.

*not be attracted since the scheme of the Limitation Act prescribes that it only deals with applications to Courts. A similar view appears to have been taken in an earlier judgment of this Court in Sukhadev v. Jagdeo 1963 Mh. L.J. 53 Notes of Cases, which contains a note on the case. For the purposes of these proceedings, it is not necessary to dwell on this aspect of the matter in the view which has been formed in the earlier part of the judgment. **On the view which has been taken, the conclusion which has been drawn is that having regard to the nature of the underlying scheme of the provision and the object which forms the foundation of prescribing a special period of limitation in the contest of a challenge to the validity of an election under the Bombay Village Panchayats Act, 1958, the provision of Section 5 of the Limitation Act, 1963 would stand excluded.***

9. Similarly in case of *J. L. Morrison India Ltd. Vs. Dy. Commissioner of Labour and Others*², this Court observed that Section 5 of Limitation Act would apply only to proceeding before Court. It is further observed that Section 29(2) of Limitation Act cannot be brought in special statute when phraseology in special statute inevitably indicates intention of Legislature to exclude by necessary implication applicability of provisions of law contained under Section 5 of the Limitation Act.

10. In light of aforesaid exposition of law, this Court finds that Hon'ble Minister has exceeded jurisdiction while entertaining time barred Appeal. Eventually, impugned order cannot be sustained in law. Hence, following order:

ORDER

a. Writ Petition is allowed in terms of prayer Clause (B).

- b. In view of disposal of Writ Petition, present Civil Application also stands disposed of.
- c. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/January-2026