

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 385 OF 2026

Bhausahab S/o Ranganath Rahane,  
Age.43 years, Occ. Agril (Sarpanch),  
R/o. Chandanapuri, Tal. Sangamner,  
Dist. Ahilyanagar.

..Petitioner

**VERSUS**

1. The State of Maharashtra  
Through it's  
The Principal Secretary,  
The Rural Department, Mumbai.
  2. The Commissioner,  
Division Nashik, Nashik,  
Tal. & Dist. Nashik.
  3. The Additional Commissioner,  
Division Nashik, Nashik,  
Tal. & Dist. Nashik.
  4. The Collector, Ahilyanagar,  
Collector Office, Ahilyanagar,  
Tal. & Dist. Ahilyanagar.
  5. The Chief Executive Officer,  
Zillah Parishad, Ahilyanagar.  
Tal. & Dist. Ahilyanagar.
  6. The Deputy Chief Executive Officer,  
Zillah Parishad, Ahilyanagar.  
Tal. & Dist. Ahilyanagar.
  7. The Block Development Officer,  
Sangamner, Tal. Sangamner,  
Dist. Ahilyanagar.
  8. The Gram Panchayat, Chandanapuri,  
Tal. Sangamner, Dist. Ahilyanagar.
  9. The Gram Sevak/ Village Development Officer,  
Chandanapuri, Tal. Sangamner,  
Dist. Ahilyanagar.
- ..Respondents

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Advocate for the Petitioner : Mr. Shermale K. N.  
AGP for Respondent/State : Ms. A.S. Mantri

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : JANUARY 12, 2026

**ORAL JUDGMENT :-**

1. Rule. Rule made returnable forthwith and heard finally with the consent of parties.

2. Present petition is filed seeking following reliefs :

*“B) The Rule may kindly be made absolute by allowing this writ petition, thereby quashing and setting aside the show cause notice dated 17.12.2025, 22.12.2025 & 31.12.2025 issued by Chief Executive Officer i.e. respondent no. 3 vide Ja. Kra. Sa. Pravi-2/ Gra.P-10/30/2025 as well as Ja. Kra. Sa. Pravi-2/ Gra.P-10/122/2025 as well as the report dated 14.11.2025 submitted to the Block Development Officer, Panchayat Samiti, Sangamner i.e. respondent no. 7 and consequential proceeding erupted from the enquiry/ Avhal, being illegal and arbitrary in nature.*

*C) The Rule may kindly be made absolute by allowing this writ petition, thereby quashing and setting aside the enquiry proceeding initiated by the respondent no. 5 pursuant to the section 39 (1) of The Maharashtra Village Panchayat Act, 1958 against the petitioner.”*

3. In nutshell, facts giving rise to present writ petition are as under :

The petitioner has been elected as member of Village Panchayat. On 23.05.2023, he is elected as Sarpanch of Village Panchayat. A member of legislative assembly made complaint to Chief Executive Officer, Zilla Parishad, Ahilyanagar alleging misconduct against petitioner. Pursuance to aforesaid complaint,

inquiry is initiated by Block Development Officer. The petitioner was not given opportunity of hearing or notice of such inquiry. On 19.11.2025, Block Development Officer submitted his report to the Chief Executive Officer, Zilla Parishad, (Ahilyanagar). Eventually, impugned notice dated 17.12.2025 is served to petitioner under Section 39 (1) of the Maharashtra Village Panchayat Act, 1959 (for short 'MVP Act'), thereby calling upon petitioner to show cause as to why proposal under Section 39 (1) shall not be forwarded to Divisional Commissioner, Nashik for charges specifically mentioned in the notice.

4. Mr. Shermale, learned advocate appearing for petitioner submits that report dated 19.11.2025 submitted by Block Development Officer is basis for show cause notice served to petitioner. In that view of the matter, unless petitioner is given an opportunity to participate in inquiry by Block Development Officer, show cause notice could not have been issued in terms of Section 39 (1) of MVP Act. In support of his contention, he relies upon the observations of the Hon'ble Supreme Court in case of The State of Jharkhand and Ors Vs. Rukma Kesh Mishra arising out of SLP (C) No.19223 of 2024 decided on 28.03.2025, Krishnadatt Awasthy Vs. State of M.P. and Ors in Civil Appeal No(S). 4806 of 2011 decided on 29.01.2025 and observations of this Court in the case of Dnyaneshwar

Shridhar Matkar Vs. The State of Maharashtra and Ors in Writ Petition No.3885 of 2023 decided on 03.05.2023.

5. Having considered submissions advanced, it can be observed that petitioner is impugning show cause notice issued under Section 39 (1) of MVP Act by Chief Executive Officer, Zilla Parishad, Ahilyanagar. It is apposite to refer Section 39 of MVP Act which enables removal of member or Sarpanch or Up-sarpanch of Village Panchayat, in case he is found guilty of misconduct in discharge of his duties. Section 39 reads thus :

***“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; 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, through 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.];*

*((1A) Where a person is removed from office of the Sarpanch or Upa-Sarpanch, he shall not be eligible for re-election as Sarpanch or Upa Sarpanch during the remainder of the term of office of members of the panchayat.]*

*[(2) The Commissioner may subject to like condition disqualify for a period of not exceeding [six years), any person who has resigned his office as a member, Sarpanch or Upa-Sarpanch and has been guilty of the acts and omissions specified in sub-section (1).*

*(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 scheme under Section 39 of MVP Act would show that action of removal can be taken by Commissioner on the basis of report called from Deputy Chief Executive Officer under direction of Chief Executive Officer or under orders of Commissioner regarding inquiry as to allegations after giving due notice to panchayat and the person concerned and he has been given reasonable opportunity of being heard. The report of such inquiry needs to be submitted to the Divisional Commissioner. The Divisional Commissioner is again required to grant opportunity of hearing to the concerned person and take a decision on report submitted by the

Chief Executive Officer and pass further orders as to removal or non-removal of Sarpanch or Up-sarpanch.

7. Apparently, impugned show cause notice is issued by the Chief Executive Officer thereby calling upon petitioner to submit his explanation to the charges specifically depicted in the notice. It is true that aforesaid show cause notice refers to the report of Block Development Officer, Panchayat Samiti, however, such report can be taken as a preliminary report of inquiry and petitioner is entitled to dislodge the contents of such report by giving appropriate reply with supporting documents before Chief Executive Officer. Apparently, show cause notice is a first stage of proceeding under Section 39 (1) of MVP Act. The report of Block Development Officer is in nature of preliminary enquiry before initiation of action under Section 39 of Act. There is no need to permit petitioner to participate in such preliminary enquiry.

8. The Hon'ble Supreme Court of India in the case of Krishnadatt Awasthy (supra) has observed that "judicial review of administrative actions are permissible on the grounds of illegality, unreasonableness or irrationality or procedural irregularity". In present case, since show cause notice is subject matter of challenge, in light of the law laid down by the Hon'ble Supreme Court of India in the case of *Union of India Vs. Kunisetty Satyanarayana* reported in (2006) 12 SCC 28, this Court can only consider the show cause notice

issued by the authority who has no jurisdiction to do so. In present case, it is not disputed that Chief Executive Officer has jurisdiction to issue show cause notice. Plain reading of Section 39 itself indicates that Chief Executive Officer is empowered to issue show cause notice or in fact legally bound to issue show cause notice and call upon the person against whom the action is proposed under Section 39 to tender his explanation.

9. It appears that notice complies with statutory requirements. The petitioner is at liberty to reply show cause notice on all charges along with documents in support of his contention and the Chief Executive Officer is also under obligation to consider such reply before making further report to the Divisional Commissioner.

10. In that view of the matter, this Court did not find any reason to cause interference at this stage. Hence, writ petition stands rejected.

**(S.G. CHAPALGAONKAR, J.)**