

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10185 OF 2025**

Mangal Mahadu Korde ... Petitioner
versus
The State of Maharashtra and Ors. ... Respondents

Mr. Anurag R. Mishra i/by Mr. Adwait Bhonde, for Petitioner.
Ms. Mamta S. Srivastava, AGP for State.
Mr. Ravindra Sonba Pachundkar, for Respondent Nos.3 and 4.
Mr. Vijaykumar Dighe with Mr. Turerao, for Respondent No.5.

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CORAM: N.J.JAMADAR, J.

**RESERVED ON : 24 FEBRUARY 2026
PRONOUNCED ON : 29 APRIL 2026**

JUDGMENT :

1. Rule. Rule made returnable forthwith and with the consent of the learned Counsel for the parties, heard finally.
2. By this Petition under Articles 226 and 227 of the Constitution of India, the Petitioner takes exception to an order dated 8 May 2025 passed by the State Government in Appeal No.V.P.M. 2024/Pra.Kra.101/P.R.6, whereby the appeal preferred by Respondent No.5 under Section 39(3) of the Maharashtra Village Panchayat Act, 1959 (the Act, 1959) against an order passed by the Divisional Commissioner, Pune in Village Panchayat Dispute No.4 of 2024, thereby declining to remove the Petitioner from the office of Sarpanch of Village Panchayat Wakalwadi, Taluka Khed, Dist. Pune, came to be allowed and the Petitioner came to be removed from the said office.

Background facts:

3. Shorn of superfluities, the background facts can be stated as under :

3.1 In the election to the Wakalwadi Village Panchayat held in the year 2021, the Petitioner came to be elected for the term of five years. The Petitioner was subsequently elected as Sarpanch of the said Village Panchayat. Respondent No.5, a member of the said Village Panchayat, lodged a complaint with the Zilla Parishad, Pune, alleging various irregularities in the affairs of the Village Panchayat, and misconduct by the Petitioner, Upa-Sarpanch and the Secretary, of the Village Panchayat.

3.2 Pursuant to the directions of the Chief Executive Officer, Zilla Parishad, Pune, the Block Development Officer had conducted a preliminary inquiry and submitted a report on 26 September 2023, wherein the Petitioner and others were indicted. Eventually, by the order of the Divisional Commissioner under the proviso to Section 39(1) of the Act, 1959, the Chief Executive Officer caused an inquiry to be conducted in the allegations against the Petitioner.

3.3 Post inquiry, on 18 March 2024, the Chief Executive Officer submitted a report to the Divisional Commissioner, Pune. The Chief Executive Officer, inter alia, reported various acts of omission and commission by the Petitioner and the Secretary of the Village Panchayat. It was noted that, more than 50 village panchayat works were executed without inviting bids and resorting to tender process. Not a single notice inviting tender was published in the

newspapers or on digital portals. Nor the bids were invited in respect of any of the works. Contracts were awarded without following the tender process. Purchase orders were not issued. Cash transactions were entered into without adhering to the Accounting Rules. Various other acts and omissions were also attributed to the Petitioner.

3.4 After providing an opportunity of hearing to the parties, by an order dated 3 July 2024, the Divisional Commissioner was persuaded not to take action of removal against the Petitioner opining that, though there were irregularities in the various works executed by the Petitioner, yet, the report of the Chief Executive Officer did not reveal that there was misappropriation of the Village Panchayat and other funds, made available to the Village Panchayat. Thus, the removal of the Petitioner by invoking the power under Section 39(1) of the Act, 1959, from the office of the Sarpanch was not warranted.

3.4 Being aggrieved, Respondent No.5 preferred an appeal before the State Government under Section 39(3) of the Act, 1959. By the impugned order, the Minister, Rural Development, allowed the appeal. It was recorded that the State Government was inclined to accept the contentions raised on behalf of Respondent No.5. Thus, by the impugned order, the Petitioner came to be removed from the post of Sarpanch of the Village Panchayat.

3.5 Being thus aggrieved, the Petitioner has invoked the writ jurisdiction.

4. An affidavit in reply has been filed on behalf of the Respondent No.5.

Submissions:

5. I have heard Mr. Anurag Mishra, learned Counsel for the Petitioner, Ms. Srivastava, learned AGP for the State, Mr. Ravindra Sonba, learned Counsel for Respondent Nos.3 and 4, and Mr. Dighe, learned Counsel for Respondent No.5, at some length. Learned Counsel took the Court through the material on record and the orders passed by the authorities under the Act, 1959.

6. Mr. Mishra, learned Counsel for the Petitioner, would submit that the impugned order singularly lacks reasons. The Minister, Rural Development, has simply extracted the allegations in the Dispute Application, reply thereto, report of the Chief Executive Officer and the submissions on behalf of the parties and, thereafter, went on to allow the appeal by a single line observation that he was in agreement with the contentions raised on behalf of the Appellant and, therefore, it was necessary to interfere with the order passed by the Divisional Commissioner. On this count alone, Mr. Mishra would urge, the Petition deserves to be allowed.

7. Amplifying the submission, Mr. Mishra would urge, the reasons are the soul of the adjudicatory process. In the absence of the reasons recorded by the concerned authority, the superior Court would not be in a position to evaluate the legality and correctness of the order. Unreasoned order is anathema to the fundamental principles of judicial process where a party, like

the Petitioner, suffers grave civil consequences of the decision made by the administrative or quasi-judicial authority. To buttress this submission, Mr. Mishra placed a very strong reliance on the judgment of the Supreme Court in the case of **S.N.Mukherjee V/s. Union of India**¹.

8. Mr. Mishra would further urge, the requirement to record reasons becomes even more critical where the appellate authority interferes with the order passed by the authority in the first instance, than in a case where the appellate authority simply affirms the order of the first authority. In the absence of reasons, the determination by the authority loses meaning and sanctity. Recording of reasons by the administrative or quasi-judicial authority is the basic postulate of the principle of natural justice. To this end, Mr. Mishra placed reliance on a three-Judge Bench judgment of the Supreme Court in the case of **The Siemens Engineering and Manufacturing Co. of India Ltd. v/s. The Union of India and Ors.**².

9. Even otherwise, Mr. Mishra would urge, the conduct attributed to the Petitioner does not constitute misconduct, disgraceful conduct or negligence in the performance of the duties as the Sarpanch of the Village Panchayat. Laying emphasis on the fact that the Divisional Commissioner, on the basis of the report of the Chief Executive Officer, has categorically recorded that, at best, there were administrative lapses on the part of the Petitioner, the

1 AIR 1990 SC 1984

2 AIR 1976 SC 1785

Minister could not have removed the Petitioner from the Office of Sarpanch, to which she was lawfully elected. A very strong reliance was placed by Mr. Mishra on a judgment of the learned Single judge of this Court in the case of **Ankush Achutrao Raut and Ors. V/s. The State of Maharashtra and Ors.**³ , wherein the import of the term 'misconduct' was sought to be expounded. .

10. In contrast to this, Ms. Srivastava, learned AGP for the State, endeavoured to support the impugned order. It was submitted that the Minister, Rural Development, had noted all the relevant facts, including the report of the Chief Executive Officer, which categorically indicts the Petitioner. The learned AGP would urge that the Minister, Rural Development, can be said to have applied his mind to the facts of the case. Ms. Srivastava would urge that the misconduct and neglect attributed to the Petitioner over a period of time is so gross that, no other inference is deducible. Taking the Court through the report of the Chief Executive Officer, learned AGP would urge, the consistent course of dealing with the affairs of the Village Panchayat as if it was the personal property of the Petitioner, absolutely justified the order of removal.

11. Mr. Dighe, learned Counsel for Respondent No.5, would submit that the report of the Chief Executive Officer is self-explanatory and clearly indicts the

3 2022(1) Mh.L.J. 202

Petitioner. The acts and omissions on the part of the Petitioner, over a period of time, according to Mr. Dighe, could not have been hidden under the carpet on the ground that those were administrative lapses only.

Contours of the power of removal:

12. The Village Panchayat Act, 1959, empowers the Divisional Commissioner to remove a member or any Sarpanch or Upa-Sarpanch from the said Office if he finds that such person is guilty of misconduct in the discharge of his duties or of any disgraceful conduct or of negligence or incapacity to perform his duty or is persistently remiss in the discharge thereof. To retain emphasis and appreciate the contours of the powers of the Divisional Commissioner to remove a member or Sarpanch or Upa-Sarpanch from the said Office, it may be necessary to extract the provisions contained in Section 39 of the Act, 1959. They read as under :

“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).....

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.]”

13. The phraseology of the aforesaid section would indicate that the Commissioner is empowered to remove from office a member or Sarpanch or Upa-Sarpanch on specified grounds. After specifying the grounds on which a member, Sarpanch or Upa-Sarpanch can be removed from the office, first and second proviso to sub-section (1) envisage a two stage inquiry. Under the first proviso, the Chief Executive Officer or the Deputy Chief Executive Officer, as the case may be, has to hold an inquiry after giving due notice to the Panchayat and the person concerned; the latter is entitled to a reasonable opportunity of hearing. Post such inquiry, the Chief Executive Officer has to submit a report to the Divisional Commissioner. Under the second proviso, the Divisional Commissioner, in turn, is enjoined to again afford a reasonable opportunity of hearing to the person to whom the notice of removal was given and against whom a report has been submitted by the Chief Executive Officer. Only after such inquiry, the Divisional Commissioner is empowered to take a decision on the report submitted by the Chief Executive Officer.

14. Sub Section (1A) prescribes the disqualifications which the order of removal may entail. Sub Section (2) empowers the Commissioner to disqualify the person who has resigned from the office as a member, Sarpanch or Upa-Sarpanch for a period not exceeding six years if such person has been found guilty of acts and omissions specified in Sub Section (1). Under sub Section (3) of Section 39, any person aggrieved by an order

passed by Commissioner under Sub Sections (1) and (2) may prefer an Appeal to the State Government.

15. If the provisions of Section 39 are read as a whole, it becomes evident that Section 39 of the Act, 1959 is a self contained Code in the matter of removal of a person from the office of member, Sarpanch or Upa-Sarpanch of Village Panchayat. Grounds on which a person can be removed from those offices have been specified. A mechanism of holding an inquiry, after affording a reasonable opportunity of hearing, has been prescribed. Decision of the Divisional Commissioner is amenable to an Appeal before the State Government.

Misconduct, disgraceful conduct or neglect:

16. The Act of 1959, however, does not define the terms “misconduct”, “disgraceful conduct”, or “neglect” which are used in clause (i) of sub-section (1) of Section 39 of the Act, 1959. Resultantly, the aforesaid expressions take colour from the context of the duties which a member, Sarpanch or Upa-Sarpanch has to perform under the provisions of the Act, 1959. Therefore, whether a particular act or omission would amount to misconduct, disgraceful conduct or neglect would turn upon the facts of a given case.

17. A profitable reference, in this context, can be made to a three bench judgment of the Supreme Court in the case of **State of Punjab and Ors Vs.**

Ram Singh Ex.Constable⁴, wherein the import of the term “misconduct” was expounded with reference to the definition in the Black’s Law Dictionary and P. Ramanatha Aiyar’s Law Lexicon. The observations in Paragraph Nos.5 and 6 are material and hence extracted below :

“5. Misconduct has been defined in Black's Law, Dictionary, Sixth Edition at page 999 thus :

.. "A transgression of some established an definite rule of action, a forbidden act, a dereliction from duty, unlawful behavior, willful in character, improper or wrong behavior, its synonyms are misdemeanor, misdeed, misbehavior, delinquency, impropriety, mismanagement, offence but not negligence or carelessness."

Misconduct in office has been defined as :

.."Any unlawful behavior by a public officer in relation to the duties of his office, willful in character. The term embraces acts which the office holder had no right to perform, acts performed improperly, and failure to act in the face of an affirmative duty to act."

P. Ramanatha Aiyar's the Law Lexicon, Reprint Edition 1987 at p.821 'misconduct' defines thus:-

"The term misconduct implies a wrongful intention, and not a mere error of judgment. Misconduct is not necessarily the same thing as conduct involving moral turpitude. The word misconduct is a relative term, and as to be construed with reference to the subject matter and the context wherein the term occurs, having regard to the scope of the Act or statute which is being construed. Misconduct literally means wrong conduct or

4 JT 1992 (4) SC 253

improper conduct. In usual parlance, misconduct means a transgression of some established and definite rule of action, where no discretion is left, except what necessity may demand and carelessness, negligence and unskillfulness are transgressions of some established, but indefinite, rule of action, where some discretion is necessarily left to the actor. Misconduct is a violation of definite law; carelessness or abuse of discretion under an indefinite law. Misconduct is a forbidden act; carelessness, a forbidden quality of an act, and is necessarily indefinite. Misconduct in office may be defined as unlawful behaviour or neglect by a public officer, by which the rights of a party have been affected."

6. Thus it could be seen that the word 'misconduct' though not capable of precise definition, on reflection receives its connotation from the context, the delinquency in its performance and its effect on the discipline and the nature of the duty. It may involve moral turpitude, it must be improper or wrong behaviour; unlawful behaviour, willful in character; forbidden act, a transgression of established and definite rule of action or code of conduct but not mere error of judgment, carelessness or negligence in performance of the duty; the act complained of bears forbidden quality or character. Its ambit has to be construed with reference to the subject matter and the context wherein the term occurs, regard being had to the scope of the statute and the public purpose it seeks to serve....."

18. In the case of **Ankush Achutrao Raut and Ors. (supra)**, on which a strong reliance was placed by Mr. Mishra, a learned Single Judge of this court, after adverting to the aforesaid decision in the case of **Ram Singh**

(supra), enunciated that the definition “misconduct” sounds and implies a wrongful intention and it being a relative term, has to be construed with reference to the subject matter. It literally means wrong conduct or improper conduct or transgression of some established and definite rule of action. Thus expression, ‘misconduct’ being used in Section 39(1)(i) of the Act, is to be understood to mean an act which must be willful in character and not a mere negligence or carelessness.

Cautious Approach:

19. At this juncture, it is necessary to note that, an element of circumspection is necessary lest an inadvertent error, neglect or carelessness is not conflated with “misconduct” or “disgraceful” conduct. Such cautious approach stems from the consequences the order of removal of an elected representative entails. Removal of an elected office bearer not only entails civil consequences for the said person, but the constituency / electoral college such person represents is also deprived of representation in the local self government body / legislative house by the person of their choice. It is, therefore, imperative that the grounds of removal or disqualification are clearly established and the procedure prescribed in the governing statute is scrupulously followed before an elected officer bearer is removed from his office. The decision making process has to be in conformity with the principles of natural justice and the person concerned must get an efficacious

opportunity to meet the indictment.

20. A profitable reference can be made to a three Judge bench judgment of the Supreme Court in the case of **Nisar Ahmad Ibrahim Khan Vs. Deolali Cantonment Board and Ors**⁵, wherein the Supreme Court postulated the law as under:

“14. There is no common law of elections. The proceedings calling in question the validity of an election are purely statutory proceedings. An election contest is not an action at law or a suit in equity, but is purely a statutory proceeding unknown to the common law and that the Court possess no common law power. It is trite proposition that in such proceedings statutory requirements must strictly be established. It is also well settled that the success of a candidate who has won at an election should not be lightly interfered with.” (emphasis supplied)

21. In the case of **Ravi Yashwant Bhoir V/s. District Collector, Raigad and Ors.**⁶ the Supreme Court highlighted the care and caution that is required to be observed while removing an elected office bearer from the office and the jurisprudential foundation for such circumspection, in the following words :

“34. In a democratic institution, like ours, the incumbent is entitled to hold the office for the term for which he has been elected unless his election is set aside by a prescribed procedure known to law or he is removed by the procedure established under law. The proceedings for removal must satisfy the

5 1987 (Supp) SCC 562

6 (2012) 4 SCC 407

requirement of natural justice and the decision must show that the authority has applied its mind to the allegations made and the explanation furnished by the elected office bearer sought to be removed.

35. The elected official is accountable to its electorate because he is being elected by a large number of voters. His removal has serious repercussions as he is removed from the post and declared disqualified to contest the elections for a further stipulated period, but it also takes away the right of the people of his constituency to be represented by him. Undoubtedly, the right to hold such a post is statutory and no person can claim any absolute or vested right to the post, but he cannot be removed without strictly adhering to the provisions provided by the legislature for his removal (Vide: *Jyoti Basu & Ors. v. Debi Ghosal & Ors.*, AIR 1982 SC 983; *Mohan Lal Tripathi v. District Magistrate, Rai Bareilly & Ors.*, AIR 1993 SC 2042; and *Ram Beti etc. etc. v. District Panchayat Rajadhekari & Ors.*, AIR 1998 SC 1222).

36. In view of the above, the law on the issue stands crystallized to the effect that an elected member can be removed in exceptional circumstances giving strict adherence to the statutory provisions and holding the enquiry, meeting the requirement of principles of natural justice and giving an incumbent an opportunity to defend himself, for the reason that removal of an elected person casts stigma upon him and takes away his valuable statutory right. Not only the elected office bearer but his constituency/electoral college is also deprived of representation by the person of his choice.

37. A duly elected person is entitled to hold office for the term for which he has been elected and he can be removed only on a

proved misconduct or any other procedure established under law like 'No Confidence Motion' etc. The elected official is accountable to its electorate as he has been elected by a large number of voters and it would have serious repercussions when he is removed from the office and further declared disqualified to contest the election for a further stipulated period."....

(emphasis supplied)

Pivotal challenge: Lack of reasons:

22. Keeping in view the aforesaid contours of the power of the removal of a member or Sarpanch and the caution required to be observed, reverting to the facts of the case at hand, first and foremost, it is necessary to deal with the principle challenge sought to be mounted by Mr. Mishra to the impugned order on the ground that it is bereft of reasons. The impugned order sans reasons lacks the essential character of an order passed by a quasi-judicial authority, submitted Mr. Mishra.

23. In the case of **S.N.Mukherjee (supra)**, the Constitution Bench of the Supreme Court enunciated that, the necessity of recording of reasons by an administrative authority exercising quasi-judicial functions arises from the fact that those reasons would enable the superior Court to effectively exercise the appellate or supervisory power. But that is not the sole consideration. Other vital considerations are : (1) reasons guarantee consideration by the authority; (2) reasons introduce clarity in the decisions, and, (3) reasons minimise chances of arbitrariness in decision-making. The requirement to record

reasons can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities. The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. The need for recording of reasons is greater in a case where the order is passed at the original stage. The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge.

24. In the case of **The Siemens Engineering and Manufacturing Co. of India Ltd. (supra)**, a three-Judge Bench of the Supreme Court reiterated that, it is now well settled that where an authority makes an order in exercise of a quasi-judicial function it must record its reasons in support of the order it makes. Every quasi-judicial order must be supported by reasons. That has been laid down by the Supreme Court by a long line of decisions. The rule requiring reasons to be given in support of an order is, like the principle of *audi alteram partem*, a basic principle of natural justice which must inform every quasi-judicial process and this rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law.

25. In the case at hand, the submission of Mr. Mishra that the order passed

by the State Government does not contain reasons cannot be said to be unfounded. The Minister had not made any effort to come in close quarters with the reasons ascribed by the Divisional Commissioner. After copious narration of facts, the contentions of the parties and the order passed by the Divisional Commissioner, report of the Chief Executive Officer and the order passed by the Divisional Commissioner, the Minister has allowed the Appeal by a general observation that he was persuaded to agree with the contentions raised by Respondent No.5 – Appellant therein. But for the facts which stares in the face, this Court would have allowed the Petition on this count alone and given a *quietus* to the matter.

Necessity of a different approach:

26. The report of the Chief Executive Officer gives a vivid account of the manner in which the Petitioner discharged her duties as the Sarpanch of the Village Panchayat. More than 50 Village Panchayat works aggregating to lakhs of rupees were awarded by the Petitioner without resorting to bidding/tender process. No bids were invited. Contracts were awarded to the persons / entities without following tender process. Same *modus operandi* was followed for procurement of the articles for the Village Panchayat. Even the works under the aegis of 14th and 15th Finance Commission were executed sans inviting bids or following the tender process. The Divisional Commissioner was persuaded to downplay the aforesaid conduct attributed to

the Petitioner by observing that those were administrative lapses, as the inspection carried out by the Dy. Engineer of the Zilla Parishad revealed that the works were found to have been actually executed, though without following the tender process, and there was no misappropriation.

27. The report of Chief Executive Officer concludes that the Petitioner committed breach of the duties prescribed under the Code, 2011. The Divisional Commissioner has not found the said finding of the Chief Executive Officer unsustainable or not borne out by the material on record. However, though there were irregularities, since the Chief Executive Officer has not concluded that there was misappropriation of funds, the Petitioner did not deserve to be removed, reasoned the Divisional Commissioner. Whether this approach of the Divisional Commissioner is justifiable?

28. The aforesaid issue was required to be examined by the Divisional Commissioner with the seriousness it deserved. Under the provisions of Section 38(1) of the Act, 1959, the executive power for the purpose of carrying out the provisions of the Act, 1959 and the resolution passed by the Village Panchayat vests in the Sarpanch, who shall be directly responsible for the due fulfillment of the duties imposed upon the Panchayat by or under the Act, 1959. The Petitioner was statutorily enjoined to execute the Village Panchayat works in a transparent manner and in conformity with the Maharashtra Grampanchayat Account Code, 2011 ("the Code, 2011"). The

Petitioner could not have awarded the contract, as if she was distributing largesse. The Petitioner was dealing with the public funds and the public works and if those public funds were to be spent, the public works were required to be executed in conformity with the rules and by following a transparent process.

29. In exercise of the powers under Section 176 (1) and(2) of the Act, 1959, the State Government has framed Rules titled “Maharashtra Grampanchayat Account Code, 2011.” Rule 11(11), provides that duties of Sarpanch and Secretary of the Panchayat in the matter of finance, audit and accounts shall be as provided in Annexure 1 and 2 thereto.

30. Under Clause (1) of Schedule 2, the Sarpanch shall act as a treasurer of all the amounts credited to the Village Panchyat fund. Under Clause (4), the Sarpanch and the Secretary shall be jointly responsible for the financial transactions out of the funds at the disposal of the Village Panchayat. Under Clause (8), it is duty of the Sarpanch to ensure that the expenditure from the funds, available with the Panchayat, shall be just, reasonable and incurred when absolutely necessary.

31. Apart from the aforesaid duties as the officer in whom the executive power of the Panchayat vests, and in the capacity of the treasurer of the Village Panchayat, the Code, 2011 contains specific provisions in the mater of execution of the Village Panchayat works and the expenditure. For instance,

for contingency and other expenditure, Rule 44 (2) of the Code, 2011 provides for the expenditure up to Rs.1,000/- no formal process is required to be followed, for the expenditure between Rs.1,000/- to Rs.20,000/- inviting of competitive quotations is mandatory and for expenditure above Rs.20,000/-, it is obligatory to invite bids and accept the lowest bid.

32. Under Rule 54(1) for execution of minor works of the value below Rs.50,000/- bids shall be invited. However, to ensure that competitive bids are received, it is obligatory to give adequate publicity to the notice inviting the bids locally.

33. Rule 56 mandates that for every expenditure in excess of Rs.50,000/- public tenders be invited from the contractors without fail. An elaborate procedure for inviting the public tenders is provided in sub-Rule (2). Ordinarily, the lowest bid should be accepted.

34. Rule 72 provides that for the other Centrally Sponsored or State Government schemes, if there are no specific guidelines for the expenditure of the funds thereunder, the Village Panchayat shall follow rules prescribed under the Code, 2011.

35. In the backdrop of the aforesaid mandatory provisions in the matter of incurring expenditure from the funds available with the Village Panchayat and the execution of public works, if the acts and omissions attributed to the Petitioners are appraised, the report of Chief Executive Officer makes it

abundantly clear that in none of the objectionable cases, the Petitioner followed the mandate of the Code, 2011 in the matter of execution of Village Panchayat works and award of contracts.

36. It was not a case of one or two instances which could have been legitimately condoned as aberration. A consistent course of execution of works and awarding contracts, even where the value of the works was beyond the prescribed threshold without inviting quotations and following the tender process, as the case may be, was adopted by the Petitioner.

37. The justification sought to be offered by Mr. Mishra that the works were indeed executed, and which also found favour with the Divisional Commissioner, is unworthy of acceptance. The object of making elaborate provisions for the execution of the works and incurring of expenditure is to ensure probity and transparency in the administration of the affairs of the Village Panchayat. The office of Sarpanch offers an opportunity for the development of panchayat and its inhabitants and also for advancing private interest at the cost of the interest of the Village Panchayat, be that of the office bearers of the Panchayat or the persons who deal with the Panchayat. It is to guard against the latter situation, the legislature has made the statutory provisions and framed the rules.

38. Thus the submission that since the works have been executed, though without following the requisite bid or tender process, as if the Petitioner was

dealing with her private affairs and, therefore, the breach of the mandatory provisions is of no consequence, is too naive to be accepted. The aforesaid being the nature of the indictment qua the Petitioner and virtually unimpeachable material in support thereof, this Court considered it appropriate to evaluate the material on record and come to an independent conclusion.

39. The material on record indicates that, after the impugned order came to be passed and upon the accrual of the consequent vacancy in the office of the Sarpanch, elections were held to the office of the Sarpanch of the Village Panchayat and the Respondent No.5 was elected as Sarpanch of the Village Panchayat, on 29 May 2025. By the time, this Petition was heard, the term of the Village Panchayat also expired. Therefore, though the term of Village Panchayat has expired, in the considered view of this Court, for the failure on the part of the State Government to record reasons, the matter cannot be put to rest. Otherwise, the consequence would be that the order passed by the Divisional Commissioner would revive and the Petitioner would stand completely exonerated and her conduct certified to be unblemished.

40. In the considered view of this Court, the fact that the State Government did not record elaborate reasons while allowing the Appeal cannot be the sole ground for allowing the Petition. The reason is not far to seek. The Writ jurisdiction is corrective in nature. It is not necessary that in every case where

the High Court finds some legal infirmity in the order passed by the Court, Tribunal or quasi-judicial authority, it must interfere. In a case of the present nature, where the consistent course of misconduct, failure and neglect to perform the duties in accordance with governing rules stares in the face, the High Court needs to be alive to the ultimate effect of setting aside the order passed by the Appellate Authority. It would revive the order of Divisional Commissioner exonerating the Petitioner, which this Court finds illegal. In such a situation the High Court may be justified in declining to set aside the order impugned before it as its effect would be to revive another illegal order.

41. A profitable reference in this context can be made to a judgment of the Supreme Court in the case of **Bhartiya Seva Samaj Trust Through President and Anr Vs Yogeshbhai Ambalal Patel and Anr**,⁷ wherein it was enunciated that it is a settled legal proposition that the Court should not set aside the order which appears to be illegal, if its effect is to revive another illegal order. It is for the reason that in such an eventuality the illegality would be perpetuated and it would put a premium to the underserving party/person.

42. In the case of **Al-Can Export Private Limited Vs Prestige H. M. Polycontainers Limited And Ors**,⁸ the Supreme Court again emphasised that it is well-settled principle in law that issuance of a writ or quashing/setting aside of an order if it revives another pernicious or wrong or illegal order then

7 (2012) 9 SCC 310.

8 (2024) 9 SCC 94.

in that eventuality the Writ Court should not interfere in the matter and should refuse to exercise its discretionary power conferred upon it under Article 226 of the Constitution. The Writ Court should not quash the order if it revives a wrong or illegal order.

43. This Court finds that the aforesaid principles squarely govern the facts of the case at hand. Thus, the petition deserves to be dismissed, though the order passed by the State Government impugned in this petition does not record adequate reasons.

44. Hence, the following order :

ORDER

- (i) The Writ Petition stands dismissed.
- (v) Rule discharged.
- (vi) No costs.

(N.J.JAMADAR, J.)