



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

WRIT PETITION NO. 1273 OF 2026

1. Reena Hemant Tarone, Aged 33 years, Occ: Sarpanch.
2. Dinesh Sunil Munishwar, Aged 31 years,
Occ: Upa-Sarpanch.
3. Martand Mansaram Mendhe, Aged 38 years,
Occ: Member.
4. Lopa Vijay Gajbhiye, Aged 51 years, Occ: Member.

All R/o Wadgaon, Tah. Sadak Arjuni, District Gondia.

PETITIONERS

VERSUS

1. The State of Maharashtra, Through its Secretary,
Rural Development Department, Mantralaya,
Mumbai-32.
2. The Additional Divisional Commissioner,
Nagpur Division, Nagpur.
3. The Superintendent of Police, Anti-Corruption
Bureau, Nagpur, District Nagpur.

RESPONDENTS

Shri B.M. Kharkate, counsel for the petitioners.
Smt.K.H. Bhongade, Assistant Government Pleader for the respondents.
Shri J.K. Matala, counsel for the proposed Intervenor.

CORAM : PRAFULLA S. KHUBALKAR, J.
DATE : APRIL 16, 2026

ORAL JUDGMENT

RULE. Rule made returnable forthwith. Heard finally with consent of the learned counsel for the parties.

2. By this petition, the petitioners have assailed the order dated 02.02.2024 passed by the respondent no.2-Additional Divisional Commissioner, Nagpur and the order dated 03.11.2025 passed by the respondent no.1-Hon'ble Minister thereby disqualifying the petitioners as Sarpanch, Upa-Sarpanch and Members under Section 39(1) of the Maharashtra Village Panchayats Act, 1959 (for short, 'the Act').

3. The petitioner no.1 was elected as Sarpanch, the petitioner no.2 was elected as Upa-Sarpanch and the petitioner nos.3 and 4 were elected as Members of Gram Panchayat Wadgaon, Tahsil Sadak Arjuni, District Gondia. On 26.07.2023, a complaint was lodged by Jakiulla Sharifulla Khan against the petitioners alleging commission of offence of demand of illegal gratification under the provisions of the Prevention of Corruption Act, 1988 (for short, 'the Act of 1988'). Based on the complaint, the Anti Corruption Bureau verified the contents of the complaint about demand of illegal gratification and registered an offence against the petitioners on 19.08.2023 under Section 7 of the Act of 1988. The petitioners were arrested and remained in custody for two days. In this background, the respondent no.3 submitted a proposal to the respondent no.2 for suspension of the petitioners by relying upon the Government Resolution dated 12.02.2013. On this basis, the respondent no.2 initiated the proceedings and called upon the petitioners to appear for hearing and in the proceedings passed an order dated 02.02.2024 disqualifying the petitioners under Section 39(1) of the Act. The petitioners' challenge to this order by way of appeal before the Hon'ble Minister came to be rejected by order dated

03.11.2025. The petitioners have challenged these orders by way of instant petition.

4. Shri B.M. Kharkate, learned counsel for the petitioners submitted that the impugned order is passed by the respondent no.2-Additional Divisional Commissioner in absence of any enquiry report by the Chief Executive Officer. He also submitted that the petitioners are democratically elected persons and cannot be unseated on the basis of mere registration of offence against them.

5. In support of his submissions, he placed reliance on the following judgments:-

- i. *Ankush Achutrao Raut & Others Versus State of Maharashtra & Others* [2022(1) Mh.L.J. 202].
- ii. *Dnyaneshwar Shridhar Matkar Versus The State of Maharashtra & Others* [Writ Petition no.3885 of 2023].
- iii. *Sadhuram Jivan Kamble Versus The State of Maharashtra & Others* [Writ Petition no.11638 of 2022].
- iv. *Jagdish Mannalalji Sancheriya Versus The State of Maharashtra & Others* [2023(7) ALL MR 714].

By pointing out the position of law as laid down in these judgments, he submitted that the compliance with provisions of Section 39(1) of the Act is mandatory and in absence of any enquiry conducted by the Chief Executive Officer, the order passed by the respondent no.2 is rendered unsustainable in law.

6. Per contra, Smt.K.H. Bhongade, learned Assistant Government Pleader for the respondents opposed the petition and submitted that the impugned orders are passed by the Authorities by considering the 'disgraceful conduct' of the petitioners and the order passed by the respondent no.2 is well within its powers under Section 39(1) of the Act. She submitted that the offence under Section 7 of the Act of 1988 is registered against the petitioners and they were in police custody for several days. She also submitted that the respondent no.2 has considered the entire material and thought it fit to proceed under Section 39(1) of the Act which cannot be questioned only on account of absence of an elaborate enquiry report by the Chief Executive Officer. She submitted that the respondent no.1 conducted the proceedings by giving due notice and opportunity of hearing to the petitioners and as such the impugned orders are justified.

7. In the backdrop of rival contentions, the controversy falls for my consideration.

8. The petitioners' primary contention is, the impugned order under Section 39(1) of the Act is passed by the respondent no.2 without there being any enquiry report by the Chief Executive Officer and as such there is non-compliance of the provisions of Section 39(1) of the Act. It has to be noted that undisputedly an offence under Section 7 of the Act of 1988 is registered against the petitioners based on the complaint that the petitioners had demanded illegal gratification of 5% amount against the sanctioning of bills of the contractors. It is pertinent to note that the

petitioners were arrested in the said crime and even their Criminal Applications for quashing the First Information Report came to be rejected by this Court. In this background, when the entire material was placed before the respondent no.2, the Authority has exercised its powers under Section 39(1) of the Act on the basis of its subjective satisfaction has passed the order of disqualification.

9. In this regard, it is fruitful to refer to the position of law laid down by this Court in ***Dr.Narendra Purushottam Ingole Versus Hon'ble State Minister, Village Development Department, Mumbai & Others*** [2019(3) **Mh.L.J. 368**], wherein while dealing with an identical situation about disqualification of the members of the Gram Panchayat in the background of acceptance of illegal gratification, this Court has recorded its observations in paragraphs 15 and 16 as under:-

“15. Though it was urged that initiation of the proceedings at the behest of the Deputy Chief Executive Officer has vitiated the action as the Chief Officer himself has to make necessary enquiry leading to removal under section 39 of the said Act, this submission cannot be accepted. The Deputy Chief Executive Officer has merely brought the relevant facts to the notice of the Divisional Commissioner who has thereafter thought it fit to initiate steps for removal of the petitioner under section 39 of the said Act. The intimation given by the Deputy Chief Executive Officer is only of the occurrence of the incident in question after which the Divisional Commissioner has thought it fit to proceed under section 39(1) of the said Act. This aspect therefore does not vitiate the impugned order.

16. The Divisional Commissioner has taken into account the aforesaid aspects in the backdrop of the fact that the petitioner was a Sarpanch and has found the conduct in question to be disgraceful. It is to be noted that under section 184 of the said Act every member of a Panchayat is deemed to be a public

servant within the meaning of section 21 of the Indian Penal Code. The act of being caught red-handed in a trap by the Anti-Corruption Bureau has been found to be disgraceful in the light of the fact that the petitioner was holding the post of Sarpanch. The Appellate Authority has concurred with the view expressed by the Divisional Commissioner and has dismissed the appeal. It is found that the subjective satisfaction of the Commissioner as affirmed by the Appellate Authority is based on material available on record. The Authorities having found the petitioner guilty of such disgraceful conduct, the approach in question is not found to be irrational or not based on any material whatsoever. A reasonable view of the matter having been taken by the Authorities concerned and there being no other view possible, I am not inclined to interfere with the impugned orders.”

10. In view of abovementioned exposition of law, it has to be noted that the powers under Section 39(1) of the Act are to be exercised by the respondent no.2 on the basis of subjective satisfaction, which in turn is required to be based on the material available before it. Even in the aforesaid judgment, it appears that the Divisional Commissioner has passed the orders of disqualification by considering the registration of offence under the Act of 1988 against the Members of the Gram Panchayat. It further appears that the Deputy Chief Executive Officer has invited the attention of the Divisional Commissioner and although the Chief Executive Officer has not conducted the necessary enquiry, the action was not found to have been vitiated on that count. While considering the controversy, it has been observed that the respondent no.2 is entitled to take a decision with respect to the conduct of the Members being ‘disgraceful’ and the subjective satisfaction can be arrived at on the basis of material available before it.

In the instant case, in the wake of registration of offence against the petitioners under Section 7 of the Act of 1988, the impugned order under Section 39(1) of the Act passed by the respondent no.2 does not appear to be illegal or void on any count. As such, the contentions canvassed on behalf of the petitioners about absence of an elaborate report by the Chief Executive Officer cannot be accepted. The position of law in the judgments relied upon by the counsel for the petitioners about mandatory nature of the provisions under Section 39 of the Act is not disputed. However, in the instant case, the order of disqualification passed by the respondent no.2 based on its own subjective satisfaction does not appear to be arbitrary, irrational or illegal.

11. Pertinent to note, the respondent no.1-Hon'ble Minister has also concurred with the findings of the respondent no.2-Additional Divisional Commissioner and in view of the disgraceful conduct of the petitioners, their disqualification is upheld. It has to be noted that the powers under Section 39(1) of the Act are required to be exercised by the Commissioner, in case the members of the Gram Panchayat are found guilty of misconduct in discharge of their duties or of any disgraceful conduct or of neglect or incapacity to perform their duties. The removal from Office of the Members is thus based on the opinion of the Commissioner which has to be based on its subjective satisfaction. In the instant case, the decision of the respondent no.2 to order disqualification of the petitioners is based on the fact of registration of offence against the petitioners. I find that the respondent no.2 has exercised the discretion by considering the relevant factors which needs no interference.

12. A perusal of the impugned orders show that the respondent nos.1 and 2 have given due consideration to the relevant factual and legal aspects and have passed the reasoned orders. The petitioners have failed to demonstrate any illegality much less perversity with the impugned orders warranting indulgence under Article 227 of the Constitution of India. Hence, the writ petition fails and is dismissed with no order as to costs. Rule stands discharged. In view of dismissal of the writ petition, pending civil applications also stand disposed of.

(PRAFULLA S. KHUBALKAR, J.)

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