

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1806 OF 2026
WITH
CIVIL APPLICATION (CAW) NO.840 OF 2026

SAU. SARLA W/O DADARAO INGALE
VERSUS
STATE OF MAHARASHTRA, THR. THE HON'BLE MINISTER, FOR RURAL
DEVPT. AND PANCHAYAT RAJ AND OTHERS

<i>Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders</i>	<i>Court's or Judge's orders</i>
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Mr. N.A. Gawande, Advocate for Petitioner.
Ms. K.H. Bhondge, AGP for Respondent Nos.1 & 2-State.
Mr. P.A. Kadu, Thr. V.C., Advocate for Respondent Nos.7 to 17.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 18th APRIL 2026

1. Heard learned Advocate for the petitioner and learned Advocate for Respondent Nos.7 to 17 as well as learned AGP for respondent Nos.1 & 2-State.
2. By this petition, the petitioner has challenged the orders dated 17.02.2026, passed by respondent No.1 the Hon'ble Minister, deciding two separate appeals on the same day by different orders. The petitioner has also challenged the order dated 06.01.2025 and order dated 07.02.2025, passed by respondent No.2 Additional Commissioner, Amravati, under Section 39(1) of the Maharashtra Village Panchayats Act, 1959 (for short, "the Act").
3. The petitioner's primary contention is that the impugned orders under Sections 39(1) and 39(3) of the Act are passed by the respondents on the basis of an inquiry purported to be conducted by

respondent No.3 Chief Executive Officer. As regards the allegations against the petitioner with respect to encroachment having not been removed by the petitioner, respondent No.2 Additional Commissioner has passed the order dated 06.01.2025, which was subjected to challenge by an appeal before the Hon'ble Minsiter, which is decided by the Hon'ble Minister by order dated 17.02.2026. It is submitted that the Hon'ble Minister has not at all adjudicated the controversy by observing that the issue is with respect to encroachment and closed the appeal.

4. It is also pointed out that as regards the controversy with respect to other allegations about misappropriation of money by the Sarpanch, as considered by respondent No.2 Additional Commissioner by its order dated 07.02.2025, under Section 39(1) of the Act, a separate appeal was filed under Section 39(3) before the Hon'ble Minister, which is decided by order dated 17.02.2026. It is pointed out that respondent No.2 Additional Commissioner has passed the orders by relying on the report of the Chief Executive Officer. By inviting attention to a communication dated 02.04.2024, it is pointed out that Chief Executive Officer has recorded *prima facie* observation that the petitioner has indulged in certain irregularities warranting action under Section 39(1) of the Act.

5. In this regard, learned Advocate for the petitioner has relied on judgment of this Court in the case of ***Jagdish Mannalalji Sancheriya Vs. The State of Maharashtra and Others, [2023(7) ALL MR 717]*** and submitted that the Chief Executive Officer has recorded its *prima facie* conclusions and on that basis, respondent No.2 Additional Commissioner has passed the impugned orders without applying independent mind. He also invited my attention to the

inferences recorded by Additional Commissioner in its order dated 07.02.2025, which repeatedly mention the opinion expressed by the Chief Executive Officer.

6. The petition is opposed by the respondents by raising an objection to maintainability of the petition, being a challenge to two separate orders by way of one petition. Apart from this, the respondents have contended that the orders under Section 39(1) of the Act are passed by respondent No.2 Additional Commissioner on the basis of its subjective satisfaction based on the inquiry conducted by the Chief Executive Officer and therefore, do not warrant any interference. It is also submitted that the contention of the petitioner about the Additional Commissioner's order, being passed mechanically and without applying independent mind, are not supported by any grounds raised in the petition.

7. After considering the documents on record and the contentions canvassed by both the parties, I *prima facie* find that the order dated 17.02.2026, passed by the Hon'ble Minister on an appeal under Section 39(3) of the Act with respect to the complaint about failure of the petitioner to remove encroachment is not at all an adjudication of the appeal. As regards the other order passed by the Hon'ble Minister dealing with the issue of misappropriation of money based on the report of Chief Executive Officer, I find that the order under Section 39(1) of the Act appears to have been passed by respondent No.2 Additional Commissioner by simply accepting the opinion of Chief Executive Officer. It appears that the Chief Executive Officer has recorded its *prima facie* opinion as reflected from letter/communication dated 02.04.2024, which is accepted by respondent No.2 Additional Commissioner and in view of this, the

position of law clarified by this Court in *Jagdish Sancheriya (Supra)* is applicable.

8. In view of this, since the petitioner has made out a *prima facie* case, it is directed that the impugned orders shall remain stayed during pendency of the instant petition.

9. List the petition for further consideration on 28th April 2026.

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10. This is an application filed by the petitioner for grant of interim relief to stay the election program dated 30.03.2026, for filling the vacant post of *Sarpanch* of respondent No.5 Village Panchayat, with respect to which the instant petition is filed.

11. Since the the petitioner has made out a *prima facie* case, interim stay is granted to the impugned orders.

12. Having regard to the controversy involved and in view of the interim order passed in this petition, it is directed that further process of election against the vacant post of the petitioner shall not be conducted until further orders.

13. The respondents are granted time to file reply to this civil application.

(PRAFULLA S. KHUBALKAR, J.)