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**IN THE HIGH COURT OF BOMBAY AT GOA****WRIT PETITION NO.321 OF 2025**

Mr Mukesh Eknath Naik  
Son of Mr Eknath Naik  
Aged 43 years, service,  
R/o H. No 2045,  
Mharvapaz Moli,  
Khandepar, Usgao,  
Ponda Goa.

.... Petitioner

Versus

1. Mrs Mubina Bi Faniband  
Wife of Mr Mahammed Samulla  
Daughter in law of  
Mr Azad Faniband,  
Aged above 35 years,  
Indian National,  
Ward Member Ward No IX Of  
VP of Rumdamol, Davorlim,  
R/o H. No 487, Rumdamol,  
Davorlim Salcete Goa.
2. Mr Mohammed Samiulla Faniband  
Son of Mr Azad Faniband Aged  
Above 35 years, Indian National,  
Ward Member Ward No VII Of  
VP of Rumdamol, Davorlim, R/o  
H. No. 487, Rumdamol,  
Davorlim Salcete Goa
3. Mr Mohammed Mustafa Dodmani  
Son of Mr Mehboob Dodmani  
Aged above 35 years,  
Indian National,  
Ward Member Ward No IV Of

VP of Rumdamol, Davorlim,  
R/o H. No 561, Rumdamol,  
Davorlim Salcete Goa.

4. Mrs Zubeda Bi Abubakar Agasar  
Wife of Abubakar Shaikh Daughter  
of Mr Mohammed Ali Agasar  
Aged above 35 years,  
Indian National,  
Ward Member Ward No V Of  
VP of Rumdamol, Davorlim,  
R/o LIG-412, Rumdamol,  
Davorlim Salcete Goa.

5. Mr Mohammed Ali Agasar,  
Son of Mr. Chaman Sab Agasar  
Aged above 35 years,  
Indian National,  
R/o EWS-558, Rumdamol,  
Davorlim Salcete Goa

6. The Village Panchayat of  
Rumdamol Davorlim Through its  
Secretary Rumdamol Davorlim,  
Salcete Goa.

7. The BDO South Goa Margao Goa

8. State of Goa,  
Thr. Chief Secretary  
Porvorim-Goa

.... Respondents

Mr. Gaurish Agni with Mr. Kishan Kavlekar, Advocates for the  
Petitioner.

Mr. Parag Rao with Mr. Jay Mathew, Advocates for Respondent  
Nos. 1 to 4.

Mr. Devidas Pangam, Advocate General with Mr. Tukaram Gawas, Additional Government Advocate for Respondent Nos. 7 and 8.

**CORAM:- VALMIKI MENEZES, J.**

**RESERVED ON : 6<sup>TH</sup> AUGUST, 2025**

**PRONOUNCED ON :- 7<sup>TH</sup> AUGUST, 2025**

**JUDGMENT:**

1. Registry to waive objections and register the matter.
2. Heard learned Advocates for the parties.
3. Rule. Rule is made returnable forthwith; at the request of and with the consent of learned Advocates for the parties, the matter is finally heard and disposed of. Learned Advocate Mr. Kishan Kavlekar waives service on behalf of the Petitioners, learned Advocate Mr. Jay Mathew waives service for Respondent Nos. 1 to 4 and Mr. Tukaram Gawas Additional Government Advocate waives service for Respondent Nos. 7 and 8.
4. This petition takes exception to an order dated 02.08.2025, whereby the District Court, in its revisional jurisdiction under Section 201B of the Panchayat Raj Act (the Act) has granted the Respondent Nos. 1 to 4, a stay for 20 days, of an order dated 28.07.2025 of the Block Development Officer (BDO) holding the

Respondent Nos. 1 to 4 stood disqualified in terms of the provision under Sub Section 4 of Section 55 read with clause (d) of Sub Section 1 of Section 12 of the Act.

5. The Petitioner is the original complainant before the Village Panchayat of Rumdamol, Davorlim. The Respondent Nos. 1 to 5, who are elected members of the Panchayat from different Wards within the jurisdiction of this Panchayat. The Petitioner has initially filed several complaints before the Panchayat claiming that certain persons named in the complaint, who were directly related to the Respondent Nos. 1 to 5, had undertaken illegal constructions in lands within the jurisdiction of the Panchayat, contrary to planning regulations and without a construction licence under the Act. It is the Petitioner's case that when these complaints were taken up at the monthly meeting of the Panchayat on 18.01.2024, the Respondent Nos. 1 to 4, attended this meeting and passed certain resolutions with regard to these structures, despite, these members being related to the persons who had allegedly constructed the structures illegally.

6. It is the Petitioner's case that since the Respondent Nos. 1 to 4, had a pecuniary interest in the lands/structures constructed, as aforesaid, the persons who had constructed the same being their close relations, they stood disqualified in terms of the provisions of Sub Section 4 of Section 55 read with clause (d) of Sub Section 1 of Section 12 of the Act. An application to that effect was filed

by the Petitioner before the BDO on 04.10.2024. After receiving notice of this application, Respondent Nos. 1 to 4 filed their common reply to the application, admitting that although they were related to the parties mentioned in the complaint, they did not take part in the decision making process at the meeting of the Panchayat. The reply also states that no action was taken by the Panchayat, at the meeting, attended by Respondent Nos. 1 to 4 and no adverse impact or conflict of interest arose. The Respondent Nos. 1 to 4 stated that the allegations in the application regarding pecuniary interest of the Panchayat members was baseless and unfounded. This reply is signed by the Advocate for the Respondents and has no supporting affidavit.

7. Thereafter, written arguments came to be filed by the parties before the BDO, who passed an order dated 28.07.2025, holding Respondent Nos. 1 to 4 to have been disqualified.

The order dated 28.07.2025 of the BDO was assailed in a Revision filed by the Respondent Nos. 1 to 4 before the District Court, who after issuing notice to the Petitioner, and hearing the parties passed the impugned order, granting a stay to the operation of the order of the BDO for 20 days.

8. The main ground raised in the petition is that the District Court ought not to have granted a stay of a disqualification order, and if it was of the opinion that the order was required to be

stayed, it ought to have made the order conditional upon restraining the Respondent Nos. 1 to 4 from participating in any meetings of the Panchayat or taking any decisions or voting in such meetings.

9. Following are the submissions advanced by learned Advocate for the Petitioner, Advocate Mr. Gaurish Agni :

(a) It was submitted that the BDO having held that the Respondent Nos. 1 to 4 had incurred disqualification owing to the fact that these Respondents had taken part in discussions on the complaint of the Petitioner, subject matter of which were illegal constructions of their relatives, the effect of such disqualification renders the seat of the member of the Panchayat to be vacant; the seat earlier occupied by Respondent Nos. 1 to 4 for their respective Wards having fallen vacant, elections to these seats are required to be immediately conducted. It was submitted that the effect of granting stay of a disqualification of a member, would directly be an interference in the process of fresh elections, in addition to which, it would confer all rights vested in an elected member, including the right to vote and take decisions for the Panchayat, despite their disqualification.

(b) Alternately it was argued that even if the disqualification stood stayed, and the order operated as

an embargo to conducting fresh election to the four vacant posts occupied by Respondent Nos. 1 to 4, the District Court ought to have imposed conditions on the Respondent Nos. 1 to 4, restraining them from participating in any meetings of the Panchayat, in its discussions or casting their votes at meetings convened for any specific purpose.

(c) To buttress these submissions, reliance was placed on the following Judgments:

- 1. *Smt.Indira Nehru Gandhi v/s Shri Raj Narain and another (1975) 2 SCC 159***
- 2. *Pandurang Dagadu Parte v/s Ramchandra Baburao Hirve and Others 1997 SCC OnLine Bom 130***
- 3. *Rupesh Ravindra Sakharkar v/s Narendra Madhukar Kambekar and Anr 2016 SCC OnLine Bom 8471***
- 4. *Ulhas Morajkar v/s Anand Tulaskar and Anr (High Court of Bombay at Goa in Writ Petition No.1328 of 2024)***

10. Per Contra, Mr. Parag Rao, Advocate appearing for Respondent Nos. 1 to 4 has supported the impugned order and advanced the following submissions:

(a) It was submitted that the District Court has not passed its order mechanically, but has considered the records

before the BDO, and after arriving at a prima facie conclusion that the order of the BDO does not record specific findings on the question that the Respondent Nos. 1 to 4 were related to the persons who had allegedly constructed illegal structures, nor had it given any finding as to in what manner these Respondents had pecuniary interest in the subject matter of the constructions; it was based on this prima facie conclusion that the order granting a blanket stay of the disqualification was passed. It was further submitted that a perusal of the order of the BDO would reveal that there is no finding on the issue of the pecuniary interest of the Respondents in the subject matter of the complaints which would justify a blanket stay being granted.

- (b) It was further submitted that the Respondent Nos. 1 to 4 being democratically elected members of the Panchayat, they should not be easily dislodged from their post, unless they have been conclusively held to be in violation of the provisions of Section 12 (1); it was submitted that the violations in clause (a) to (d) of that provision are required to be conclusively proved against the Respondents, before any disqualification is incurred by them. The learned Advocate referred to various paragraphs of the impugned order to contend



that there was no specific finding that the grounds under clause (d) of Sub Section 1 of Section 12 of the Act, had been made out.

- (c) It was further contended that in matters of election disputes, a higher forum dealing with a challenge to a disqualification, held to have been incurred by an elected representative, would always have the power to grant a stay of the operation of such disqualification; it was contended that the power to grant a stay would obviously be exercised after the higher forum considers, prima facie, whether the impugned order could be sustained. It was then submitted that the District Court has considered the impugned order and has formulated the issues for determination in the revision application which are recorded in paragraph No. 11 of the order. At the relevant time, the District Court also considered, the fact that a meeting had been called for by the Director of Panchayats to elect a new Sarpanch as the post of the Sarpanch had fallen vacant, and the operation of the disqualification order would act as an embargo on the Respondent Nos. 1 to 4 casting their votes to elect a new Sarpanch, or for any of them to contest these elections. It is on that consideration, that it is submitted, the District Court's order does not call for interference.

- (d) Reliance has been placed on the following Judgments:
1. *Maharaja Chintamani Saran Nath Shahdeo v/s State of Bihan and Others* (1999) 8 SCC 16
  2. *The Akhada St. Estevam Village and 2 Others v/s Smt. Seema Rohidas Narvekar and 5 ors* ( High Court of Bombay at Goa in Writ Petition no.497/2009)
  3. *Shri Jagdish bhobe v/s State of Goa and 3 Ors* ( High Court of Bombay at Goa in Writ Petition no.295/2010)
  4. *Kranti Associates private Limited and Another v/s Masood Ahmed Khan and Others* (2010) 9 SCC 496
  5. *Mohan Vithal Dabhale v/s Santosh vasant Morajkar and 6 Ors* ( High Court of Bombay at Goa in Writ Petition no.323/2010)
  6. *Raviyashwant Bhoir v/s District Collector Raigad and Others* (2012) 4 SCC 407
  7. *Dayal Shanakardas Harchandani and others v/s Municipal corporation for the City of Ulhasnagar and Others* 2017 (6) Mh.L.J.
  8. *High Court on its own Motion (In the matter of Illegal construction) v/s State of Goa Thre Chief Secretary and 3 Ors* ( High Court of Bombay at

***Goa in Public Interest Litigation (Suo Motu  
no.2/2022)***

***9. Laxmidas Ashok Chimulkar and Anr v/s State of  
Goa and Ors ( Supreme Court of India in SLP(c)  
No.19887 of 2023)***

11. Before I proceed to decide whether the impugned order granting a blanket stay of the disqualification requires interference, certain facts which are not in dispute and are now made part of the record are required to be noted.

It is not in dispute that the Respondent No. 1 was elected as a Sarpanch and Respondent No. 2 was elected as a Deputy Sarpanch of the Panchayat. The resolutions in questions were passed in a meeting dated 18.01.2024, and the Respondent Nos. 1 and 2 resigned from the post of Sarpanch and Deputy Sarpanch respectively on 29.05.2025 and 04.06.2025, after this meeting. They continued in the post of member for their respective Wards, whilst Respondent Nos. 3 and 4 were throughout members of the Panchayat. The post of Sarpanch and Deputy Sarpanch had therefore remained vacant since the resignations of Respondent Nos. 1 and 2 from these posts and obviously, elections had to be conducted to fill up these posts, so that the Panchayat continues to function.

12. It is also matter of record that after the order of the BDO was passed on 28.07.2025, whereby Respondent Nos. 1 to 4 stood disqualified, the Director of Panchayats, by an order of 29.07.2025, called for elections to the post of Sarpanch and Deputy Sarpanch, which were to be conducted on 04.08.2025. The Revision Application was filed on 30.07.2025, before the District Court at Margao. After the order of stay was granted on 02.08.2025, the BDO who was to conduct the election to the post of Sarpanch wrote a letter dated 04.08.2025 to the Director of Panchayats, stating due to his own sickness, was unable to conduct the election on 04.08.2025. During the hearing of the matter on 06.08.2025, the learned Advocate General appearing for Respondent Nos. 7 and 8 made a statement that the elections have been deferred without fixing any specific date.

13. In cases where an elected representative has incurred disqualification on account of the happening of an event or on account of his conduct, the law has been well settled over the last five decades. Under most enactments, dealing with this subject, there are Appeals or revisions provided against a decision by which an elected representative is declared disqualified, and the scope of the Appellate or Revisional Court to grant a stay of such a declaration with or without condition attached to such an order, is no more res-integra. One of the earliest Judgments on the subject is *Indira Gandhi* (supra), in which the Supreme Court has considered the effect of the declaration of a representative being

disqualified, and the effect of granting stay of such disqualification; that was a case, where the Petitioner was declared by the High Court to have been disqualified as a Member of Parliament for indulging in corrupt electoral practices, but was also holding the position of Prime Minister. Relevant passages from the Judgment are quoted below:

*“24. It is evident on its face that the orders are dichotomous in character. The two limbs stand out clearly and they are: (a) that 'the operation of the judgment and order of the High Court be and is hereby stayed and (b) the petitioner shall abide by certain enumerated terms viz., (i) he will be entitled to attend the sessions of the Legislature and sign the Register; (ii) he shall not take part in the proceedings of the House or vote or draw any remuneration as such Member. In the instances I have examined, the appeals are against orders 'unseating' the returned candidate on the ground of corrupt practice and disqualifying him for the statutory six-year period prescribed in Section 8A. If corrupt practice is found disqualification follows, although sometimes the trial Court expressly writes it into the order itself, as in the present case. If the finding of corrupt practice does not come into effect, the sequel of disqualification also does not come into effect. If the biopsy of the stay order inevitably shows that the finding of corrupt practice is suspended and is not operative, the electoral disqualification automatically stands eclipsed. Section 8A being the necessary follow-up of the judgment under Section 100, what is the legal effect of an order by this Court suspending the operation of the judgment and order of the High Court? By sheer force of the first limb of this Court's stay order the judgment and order of the High Court is nullified for the nonce i.e., till the appeal is disposed of. Consequentially, the disqualification also ipso jure remains in abeyance.*

*25. What then is the import of the conditions imposed in the stay order? They inhibit the elected member, who otherwise by virtue of the stay of the judgment, will be entitled to exercise all his rights and privileges as member from doing certain things expressly*

tabooed viz., (a) participating in the proceedings; (b) voting or drawing remuneration. For all other purposes, the voiding judgment being suspended, he continues as member. Indeed, the very direction that he attend the House and sign in the Register as member to avoid disqualification under Article 101 of the Constitution postulates that he is a member and is not disqualified under Section 8A of the Act. For, if the disqualification under Section 8A operates and he ceases to be a member, there is no need to veto his drawing remuneration, voting or participating in the proceedings. It would be a curious contradiction to say that a person is disqualified to be chosen as or being a member and yet be allowed to sign the Register as Member. Can the Court, without stultifying itself and usurping power, permit a non-member to sit in the House instead of or even in the visitor's gallery, unless it necessarily reads into the order of stay of judgment a suspension of the disqualification also? There are a number of other privileges for a Member of Parliament which are left untouched by this Court's prior stay orders. Moreover, the specific direction suspending the judgment and order under appeal, read in its plenitude, also suspends the finding of corrupt practice. So much so, the disqualification also shares the fate. I have no doubt that the reasonable effect of a stay order is that there is a plenary eclipse of the High Court's judgment and order during the pendency of the appeal, subject to the few restraints clamped down on an appellant. Those restraints are the second limb of the stay order and are explicit enough.

26. The essential point to note is that by necessary implication the disqualification imposed on every appellant also stands suspended in all cases of conditional stay. The stay is complete, but carved out of it are but three limitations. For all other purposes, the appellant, in all such cases, continues a member. For instance, if he is prevented from entering the Legislature, a breach of privilege arises. I have gone at length into these ramifications to remove recondite doubts. The typical stay restores to the appellant, during its operation, the full status of a member of a Legislature minus the right to participate in debates, including voting and drawing of remuneration as a legislator.

27. For these reasons I propose to direct a stay, substantially on the same lines as have been made in

*earlier similar cases, modified by the compulsive necessities of this case.*

*28. What would be the legal impact of an order of this type on the Prime Ministership of the petitioner? The question canvassed about the office of the Prime Minister and its involvement in the present case has exercised Counsel on both sides and it is but proper to dissolve the mists of possible misunderstanding by an explicit statement. This appeal, it is plain, relates solely to the Lok Sabha membership of the appellant and the subject-matter of her office qua Prime Minister is not directly before this Court in this litigation. Indeed, that office and its functions are regulated carefully by a separate fasciculus of Articles in the Constitution. There is some link between membership of one of the two Houses of Parliament and ministership (Article 75) but once the stay order is made, as has been indicated above, the disqualification regarding membership is in suspended animation and does not operate. Likewise, the appellant's membership of the Lok Sabha remains in force so long as the stay lasts. However, there will be a limitation regarding the appellant's participation in the proceedings of the Lok Sabha in her capacity as member thereof, but, independently of the membership, a Minister and a fortiori, the Prime Minister, has the right to address both Houses of Parliament (without right to vote, though) and has other functions to fulfil (Articles 74, 75, 78 and 88 are illustrative). In short, the restrictions set out in the usual stay order cannot and will not detract from the appellant being entitled to exercise such rights as she has, including addressing Parliament and drawing salary, in her capacity as Prime Minister. There will thus be no legal embargo on her holding the office of Prime Minister. However, this legal sequitur of the situation arising from the stay of the judgment and order of the High Court, including the suspension of the disqualification under Section 8A, has nothing to do with extra-legal considerations. Legality is within the Court's province to pronounce upon, but canons of political propriety and democratic dharma are polemical issues on which judicial silence is the golden rule.*

*31. Let me sum up the terms of the operative order I hereby pass:*

*I. Subject to para III below, there will be a stay of the operation of the judgment and order of the High Court under appeal.*

*II. Consequentially, the disqualification imposed upon the appellant as a statutory sequel under Section 8A of the Act and as forming part of the judgment and order impugned will also stand suspended. That is to say, the petitioner will remain a member of the Lok Sabha for all purposes except to the extent restricted by para III so long as the stay order lasts.*

*III. The appellant-petitioner, qua Lok Sabha member, will be entitled to sign the Register kept in the House for that purpose and attend the sessions of the Lok Sabha, but she will neither participate in the proceedings in the Lok Sabha nor vote nor draw remuneration in her capacity as Member of the Lok Sabha.*

*IV. Independently of the restrictions under para III on her membership of the Lok Sabha, her rights as Prime Minister or Minister, so long as she fills that office, to speak in and otherwise to take part in the proceedings of either House of Parliament or a joint sitting of the Houses (without right to vote) and to discharge other functions such as are laid down in Articles 74, 75, 78, 88, etc., or under any other law, and to draw her salary as Prime Minister, shall not be affected or detracted from on account of the conditions contained in this stay order.”*

14. Culling out the principles laid down in this Judgment, every Appellate or Revisional Court considering a challenge to the decision of declaration of disqualification would always have the power to grant an order staying the operation of the decision or disqualification, and while doing so, would give due prima facie consideration to the facts of the case and the manner in which the Court that has rendered the decision considered the case. Amongst these various considerations would be the findings arrived at in the decision, and broadly the material which was before that



forum to arrive at the decision. The higher forum would also have to consider the effect and consequence of grant of stay of a decision of disqualification, in the present case, considering the effect of the decision, which may cause vacancy of the member's seat and may cause a paralysis in the functioning of the Panchayat. It is in this light, that on the basis of the principles laid down in *Indira Nehru Gandhi (supra)*, that the District Court would have to decide whether an order of stay was necessary or justified, and if necessary, whether restrictions should be imposed on the disqualified member in his functioning, during the pendency of the proceeding in the higher forum.

15. Several Judgments have been cited before me on the aforementioned question. Be that as it may, in almost all the case law dealing with these circumstances, Courts have almost consistently, when granting a stay of the disqualification, have also imposed restrictions on the functioning of the disqualified member. Reference is made to few of these decisions.

The court has imposed restrictions on the disqualified member while granting stay in ***Pandurang Dagadu Parte*** (supra) in the following paragraph:

*33. At this stage, counsel for Respondent Nos. 1 to 9 prays for stay of our order to enable his clients to approach the Apex Court. Our order is stayed up to 15th of May, 1997 on condition that the Respondent Nos. 1 to 9, during the pendency of stay, will be entitled to attend*

*the meetings but will not be entitled to of deliberate, deliberate vote and draw their remunerations.*

In ***Rupesh Ravindra Sarkhar***( supra) an interim order was passed which holds as follows:

*18. At this stage, Mr. Joshi orally applies for continuation of the interim order dated 29.04.2014. On 29.04.2014, this Court passed the following interim order:*

*"i) The petitioners shall be entitled to attend the Municipal Council meetings and sign the register  
ii) However, the petitioners shall not take part in the proceedings of the said meetings or vote or draw any remuneration.*

*19. Mr. Joshi assures that petitioner will not apply for further extension of the interim order*

*20. Mr. Pilankar opposes the oral application on the ground that Interim order was passed in favour of the petitioner pending the Petition. As the Petition is finally allowed and the Election Petition is dismissed, the interim order should not be continued.*

*21. Having regard to the fact that the interim order is operating since 29.04.2014 as also S.LP. preferred by the petitioner against this order was dismissed and having due regard to the fact that respondent No. 1 intends to challenge this order in the higher Court, I find that the request made by Mr. Joshi is reasonable. Hence, for the period of 8 weeks from today, the interim order dated 29.04.2014 shall remain in force, with clear understanding that no application for further extension of interim order shall be entertained.*

This court in its order dated 12.06.2024 in ***Ulhas Morajkar*** (supra) has also taken the same view in its paragraph no.7 which is quoted below:

*"7. Since the Petitioner is an elected Member and acting as a Deputy Sarpanch, who has now been disqualified without conducting any inquiry, the order passed by the Director of Panchayats disqualifying the Petitioner from the membership, is stayed till the disposal of the Petition. However, it is made clear that since the allegations against the Petitioner are serious in nature and in connection with misappropriation of funds, the Petitioner is restrained from taking part in any*

*proceedings of the Village Panchayat of Sangolda, till the disposal of the present Petition. However, he continues to remain as a Member/Deputy Sarpanch of the said Panchayat as the order of the Director of Panchayats is stayed as above.”*

16. In the present case, one of the complaints with regard to alleged illegal constructions have been made by the Petitioner against one Azad Faniband, who is the father of Respondent No. 2, who at the relevant time when the resolution was passed, was the Deputy Sarpanch; Respondent No. 1 is the wife of Respondent No. 2 and daughter-in-law of the said Azad. Respondent No. 1 was the Sarpanch of the Village Panchayat at the time when the resolution/meeting regarding the complaint pertaining to the illegal structure was held. The other complaint of illegal construction is made against one Mehboob Dodmani, who is the father of Respondent No. 3, who was at the relevant time a member of the Panchayat who attended the meeting in question. Yet another complaint was filed before the Panchayat alleging illegal construction by Respondent No. 5 himself. Respondent No. 4 is the daughter of Respondent No. 5 and is a member of the Panchayat. Respondent No. 4 was present at that meeting, however, the minutes of the meeting record that Respondent No. 5 did not attend or participate in the meeting of 18.01.2024.

17. In the reply to the application under Section 12(1) of the Act, none of the Respondents Nos. 1 to 4 have denied the relationship alleged by the Petitioner, which is found in para 2 of

the application. Respondent No. 5 did not file any reply, but as the record suggests, he did not attend the meeting in question. Respondent Nos. 1 to 4 have also not denied that their presence at the meeting of the Panchayat held on 18.01.2024 where the complaints with regard to illegal constructions done by the above persons were first considered. In para 6 and 7 of the reply, these Respondents state that they were parties to the resolution which merely recorded that the parties involved in such constructions should be called and heard, and the complaint should be kept pending till the next meeting. The averment in para 7 of the reply accepts that the parties are related, but states that the Respondent Nos. 1 to 4 did not take part in the decision making process to attract Section 55(4) of the Act. This reply is not supported by an affidavit of any of the Respondent No. 1 to 4.

18. Prima facie, therefore, on the uncontroverted material before the BDO, Respondent Nos. 1 and 2, who were Sarpanch and Deputy Sarpanch at the relevant time were present for the meeting dealing with the complaint of illegal construction by their own father/father-in-law. Similarly, Respondent No. 3 who was present for the meeting was dealing with the complaint of illegal construction made against his own father. These prima facie findings are derived from the records and in my considered opinion, ought to have been considered by the District Court whilst, taking a call on whether to grant a stay of the operation of the order of the BDO resulting in the disqualification of

Respondent Nos. 1 to 4 and to consider whether any restrictions be imposed on the participation of these Respondents in affairs of the Panchayat, during the pendency of the Revision Application.

19. A perusal of the impugned order would reveal that after formulating the two issues to be considered for deciding the Revision Application, which are recorded in para 11 of the impugned order, the only consideration that weighed in the mind was that the elections of Sarpanch was fixed on 04.08.2025 and if the impugned order was not stayed, irreparable loss would be caused to the Respondents and their Revision would be rendered infructuous.

This consideration would be irrelevant, and in any event, was based on incorrect facts.

20. The post of Sarpanch and Deputy Sarpanch did not fall vacant on account of passing of the impugned order dated 28.07.2025, but fell vacant when Respondent Nos. 1 and 2 resigned from these two posts, respectively on 29.05.2025 and 04.06.2025, much before the order was passed. The election to these two posts were therefore required to be held within 6 months of the post falling vacant. If the disqualification incurred, by the order of the BDO went unchallenged, the post of member of Respondent Nos. 1 to 4 would also fall vacant immediately on passing of the order of the BDO on 04.06.2025. It is the effect of

the disqualification that was stayed, for if it were not stayed, the Respondent Nos. 1 to 4 ran the risk of their seats being filled in by fresh elections. The order of stay therefore, takes care of this situation and operates in a manner that could preserve its status quo insofar as the Respondent Nos. 1 to 4 continue to be members of the Panchayat, as a result of which no fresh elections can be called for to fill in their posts of members.

21. However, the Revisional Court could not be unmindful of the facts of the case, which have been referred to by me above, and it was necessary to put curbs on the participation of the Respondent Nos. 1 to 4 in further meetings of the Panchayat, as there was already a disqualification incurred by them. On the facts of this case, and the prima facie conclusions which are evident from the pleadings before the BDO, this is a case that required restrictions to be imposed on the participation of the Respondent Nos. 1 to 4 in line with the Judgment of the Supreme Court in *Indira Gandhi* (supra) and other Judgments referred to by me above. The pleadings before the BDO, prima facie suggests the participation of the Respondent Nos. 1 to 4 in the meeting of 18.01.2024; a resolution was passed on that day on the subject matter of the complaints alleging illegal constructions erected by persons who were directly related to Respondent Nos. 1 to 4 i.e. their father/father-in-law. There are references made by the BDO in order dated 28.07.2025 to the meeting held on 18.01.2024, the participation of Respondent Nos. 1 to 4 and the fact that they

discussed the complaint dated 15.01.2024, and then failed to take action. There is therefore, some consideration of the record to conclude the participation of Respondent Nos. 1 to 4 at the meeting.

22. Learned Advocate Shri. Parag Rao had submitted that though the election for the post of Sarpanch and Deputy Sarpanch for the moment has been kept in abeyance, there is every likelihood that the election for these two posts may be notified and if restrictions are put on the Respondent Nos. 1 to 4 from participating in these elections, they would be prevented from submitting their nominations to the post of Sarpanch and Deputy Sarpanch or from casting their vote in such an election.

This may be the apprehension of the Respondent Nos. 1 to 4, but the fact remains that as of date, there is an order of disqualification operating against them, which in normal course would disqualify these Respondents from the post of member of the Panchayat. To eclipse this position, by granting a blanket stay of the disqualification after the prima facie conclusions referred to by me would amount to granting the Respondent Nos. 1 to 4 the full right to act in every manner that a sitting member of the Panchayat is conferred with. Considering the vast number of Judgments, both of the Supreme Court and this Court, which have dealt with similar situations, there is no case made out for continuation of a blanket order of stay; this situation calls for

striking a balance, in maintaining the status quo, insofar as the membership of the Respondent Nos. 1 to 4 is concerned, and restricting their participation in meetings of the Panchayat, whilst continuing to represent their respective Wards. Even otherwise, considering the statement made by the learned Advocate General, that at present the elections to the post of Sarpanch and Deputy Sarpanch have been kept in abeyance, and considering the directions which are proposed to give in the matter, it may be desirable that the Director of Panchayats may keep these elections in abeyance till orders are passed by the District Court on the Revision Application.

23. For all the reasons referred to above, I pass the following order:

The impugned order dated 02.08.2025, shall stand modified and operate in the following terms:

(a) In addition to the operative part of the impugned order dated 02.08.2025 granting stay of the operation of the order dated 28.07.2025 of the BDO, which is confirmed, the Respondent Nos. 1 to 4, during the pendency of the Revision Application No.27/2025, may attend the meetings of the Panchayat and sign the register at such meeting, but shall not take part in any proceedings of such meetings or be entitled to deliberate or vote at such meetings of the Village Panchayat of Rumdamol, Davorlim.



(b) since the next date of hearing of the Revision Petition before the District Court is on 16.08.2025, the District Court is requested to ante-date the hearing and to commence the hearing of the petition before it, preferably from 12.08.2025 onwards; since the functioning of the Panchayat may be impaired, due to the operation of the stay order dated 02.08.2025, as modified by this order, the District Court may endeavour to dispose of the petition preferably by 22.08.2025, being uninfluenced by the prima facie findings given above, which are solely for the consideration of grant of stay of the order of the BDO.

24. Rule is made absolute in the above terms. No order as to costs.

25. Parties to act on an authenticated copy of this order, which shall be communicated by them to the District Court.

**VALMIKI MENEZES, J.**

**VALMIKI MENEZES, J.**