

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

Writ Petition No.2735/2022

Sau. Uma Hengad V Divisional Commissioner, Amravati and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mr. A.V. Gawande, Advocate for petitioner.
Mr. Tirukh, Advocate for respondent nos. 3 and 4.
Mr. Prakash Tiwari, Advocate for respondent no.5.
Mrs. Mrunal Barabde, AGP for respondent nos. 1 and 2.

CORAM : AVINASH G. GHAROTE, J.
DATE : 03-08-2022

Heard Mr. Gawande, learned counsel for the petitioner, Mr. Tirukh, learned counsel for the respondent nos. 3 and 4, Mrs. Barabde, learned AGP for respondent nos.1 and 2 and Mr. Tiwari, learned counsel for the respondent no.5.

2. This Petition challenges the order dated 30-03-2022 passed by the respondent 2, wherein the petitioner has been disqualified under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act for having committed encroachment on the Government land. (pg29). The appeal carried to the respondent no.1 has also come to be dismissed on 09-05-2022 (pg 25).

3. It is the contention of the petitioner that, the report on which the claim of encroachment has been accepted, is not clear and specific and therefore the respondent nos. 1 and 2 ought not to have

held the factum of encroachment to exist and thereby disqualify the petitioner.

4. Mr. Tirukh, learned counsel for the respondent nos. 3 and 4, does not dispute the report at page no. 28 and nor it is disputed by the respondent no. 5. A perusal of the report would indicate that the property no.431 as per the Gao-namuna-8 was 37x14, therein constructed house is 518 sqft and 2491 sqft open space and property no.431/1 was open space admeasuring 309 sq.ft. The measurement carried out indicated the total extent of the property to be 1321.89 sqft., which was even less than what shown as holding in the Gao-namuna-8.

5. The record further shows that both the properties had been jointly measured, however, it was unclear as to whether there was any encroachment upon any Government land or private land. That being the position, the impugned order which is based upon the report, to hold that the petitioner or her husband had committed encroachment upon the Government land, is clearly not sustainable as the report does not indicate so.

6. In view of the above, the impugned orders are hereby quashed and set aside and the application under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act filed by the respondent no.5 is hereby rejected.

3.

(Avinash G. Gharote, J.)