

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

WRIT PETITION NO. 2759 OF 2021

Shri Himmat Bhagwatrao Bhoyar,
Aged about – Major, Occ. - Private,
R/o Gram-Panchayat, Linga,
Tahsil – Katol, District – Nagpur.

.... **PETITIONER**

VERSUS

- 1) Additional Commissioner,
Nagpur Division, Nagpur.
- 2) Additional Collector, Nagpur,
District – Nagpur.
- 3) Tahsildar,
Tahsil – Katol, District – Nagpur.
- 4) Shri Vinod Madhukarrao Thakare,
Aged – Major, Occ.- Agriculturist,
R/o Gram-Panchayat, Linga,
Tahsil – Katol, District – Nagpur.
- 5) Sau. Sharada Babarao Uke,
Aged – Major, Occ. - Household,
R/o Gram-Panchayat, Linga,
Tahsil – Katol, District – Nagpur.
- 6) Gram-Panchayat, Linga,
Tahsil – Katol, District – Nagpur,
through its Secretary.

.... **RESPONDENTS**

Mr. V.G. Dhage, Counsel for the petitioner,
Mr. D.L. Dharmadhikari, AGP for respondents 1 to 3,
Mr. A.A. Mardikar, Counsel for respondents 4 and 5.

CORAM : ROHIT B. DEO, J.
DATED : 13th JANUARY, 2022

ORAL JUDGMENT :

Heard. **Rule.** With consent, the petition is heard finally.

2. The petitioner is questioning the decision of the Additional Commissioner, Nagpur dated 06-5-2021 (Annexure-12) whereby the disqualification of respondents 4 and 5 as Sarpanch and Member of the Gram-Panchayat, Linga, is set aside.

3. The petitioner alleged that the Sarpanch and his father have encroached upon Government land Survey 129 and are residing in the house constructed on the said land, and the Member has encroached on Government land adjacent to her house which is recorded in the name of her mother-in-law and has constructed a toilet.

4. The report submitted by the Tahsildar, Katol to the Collector makes a reference to spot inspection report of the Talathi. Interestingly, according to the Tahsildar, Survey 129 and Survey 130 are virtually clubbed or consolidated. Adverting to the Member-Sharda Uke, the Tahsildar refers to the report of the Talathi which is to the effect that she constructed a toilet behind her house.

5. It is common ground that the Talathi appears to have submitted a report behind the back of the affected parties. The Sarpanch and the Member were kept in the dark and a report apparently is submitted to the Tahsildar, who in turn forwarded the same to the Collector, which is the sole basis of the order of the Collector of disqualifying the Sarpanch and the Member.

6. The Additional Commissioner has rightly noted that there is absolutely no reference of encroachment made by the Sarpanch even in the report of the Talathi and in so far as the Member is concerned, her house is not measured, with the result that the toilet allegedly constructed behind her house, is not necessarily an encroachment. I see no error in the view taken by the Additional Commissioner.

7. The petition is dismissed.

JUDGE

adgokar