

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

WRIT PETITION NO. 3456 OF 2022

Sau. Vimal Uttamrao Dhakde

Vs.

The Additional Collector, Amravati and Ors.

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

Court's or Judge's Orders.

Mr. S.M. Vaishnav, Advocate for petitioner.
Ms. Sangita Jachak, AGP for respondent/State.
Mr. N.A. Gawande, Advocate for respondent No.4.

CORAM : MANISH PITALE J.

DATE : 27.06.2022.

By this petition, the petitioner has challenged order dated 21.06.2022 passed by the respondent No.1 – Additional Collector. The said order has been passed during the course of a proceeding initiated against the petitioner for disqualification from the elected position of Sarpanch under Section 14 (1) (J-3) of the Maharashtra Village Panchayat Act, 1959, for allegedly having encroached upon Government land.

2. The said proceeding before the Collector has been undertaken as a consequence of an order of remand dated 14.01.2022 passed by this Court in Writ Petition No.2522/2021. While remitting the matter back to the respondent No.1 this Court had

directed that a fresh exercise of inspection and measurement of the disputed spot would be carried out by the authorized Officer, in the presence of the parties.

3. It appears that in pursuance of the said direction given by this Court on 15.02.2022, the spot inspection was carried out by the authorized Officer i.e. Engineer , Public Works Department (PWD). The report pursuant to the said exercise dated 11.04.2022 was placed before the respondent No.1 .

4. There is controversy raised between the contesting parties i.e the petitioner and respondent Nos.4 & 5 as to whether the petitioner actually attended the said spot inspection. The petitioner claims that she attended the spot inspection but since her objections were not being noted by the said Engineer of the PWD, she refused to sign the Panchnama. The respondent Nos.4 & 5, contend that the petitioner did not attend such exercise of spot inspection.

5. It is in the backdrop of these events that the petitioner moved an application before the respondent No.1 in the pending proceeding seeking to examine the said authorised Officer i.e. Engineer

PWD, who had carried out the spot inspection and submitted the aforesaid report.

6. By the impugned order the said application/objection has been rejected.

7. Since, the learned AGP has appeared on behalf of the respondent Nos.1 and 3 and the contesting respondent Nos.4 & 5 are represented by counsel, this petition is taken up for hearing and disposal today itself.

8. This Court is of the opinion that the petitioner even if she had failed to attend the actual spot inspection carried out by the authorized Officer, would be entitled to examine the said Officer on the basis of report dated 11.04.2022 already placed on record. The apprehension expressed by contesting respondent Nos.4 and 5 that such objections would be raised by the petitioner only to delay the proceedings can be taken care of by giving appropriate directions. In any case, this Court is clear that the petitioner will not be entitled to or claim any further spot inspection/measurement of the disputed area for the reason that an opportunity to examine the authorized Officer should sufficiently address the concerns of the petitioner. This Court is convinced that examination of the authorized Officer

would only assist the respondent No.1 in reaching the conclusion either way as regards the alleged encroachment of the Government land.

9. In view of the above, the writ petition is allowed. The impugned order is set aside and the application/objection filed by the petitioner seeking an opportunity to examine the authorized Officer is allowed.

10. Accordingly, the petitioner shall examine the authorized Officer on the next date of listing before the respondent No.1.

11. The respondent No.1 shall dispose of the pending proceedings on or before 14.07.2022. To avoid any further controversy in the matter, it is directed that the parties shall be remain present before the respondent No.1 on 30.06.2022.

12. The respondent No.1 shall ensure that the authorized Officer - respondent No.3 i.e PWD is put to notice so that the petitioner is able to examine the authorized Officer on 30.06.2022.

13. The writ petition stand disposed of.

JUDGE