

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**943 WRIT PETITION NO.11673 OF 2022
IN
CIVIL APPLICATION NO.3172 OF 2023**

**SANDIP PRABHAKAR NIKAM
VERSUS**

- 1. THE ADDITIONAL COMMISSIONER,**
- 2. THE DISTRICT COLLECTOR,**
- 3. The CHIEF EXECUTIVE OFFICER**
- 4. THE BLOCK DEVELOPMENT OFFICER,**
- 5. THE GRAMSEVAK,**
- 6. BALAJI KESHAVRAO (PATIL)**

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Advocate for Petitioner: Mr. S. U. Chaudhari
AGP for Respondent/State: Mr. K. N. Lokhande
Advocate for Respondent No.6: Mr. P. D. Patil

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CORAM : ARUN R. PEDNEKER, J.

DATE : 31st AUGUST, 2023

PER COURT:

1. Heard.

2. The learned counsel for the petitioner submits that reliance is placed by the authorities below on the report submitted by the Block Development Officer, Panchayat Samiti, Chalisgaon. It is contention of the petitioner that the report was prepared behind his back and without notice. It is not demonstrated in the report anywhere that

the notices were issued to the petitioner by the Block Development Officer. The report indicates that the petitioner has encroached on the government land and the Block Development Officer has visited the village and that he has himself examined the construction and done inquiry. However, the learned counsel submits that the visit of the Block Development Officer was not intimated to the petitioner and that the inquiry is behind the back of the petitioner. No opportunity was given to the petitioner to defend his case before the Block Development Officer. The authorities below have relied on the report of the Block Development Officer to disqualify the petitioner. Although, the report was prepared behind the back of the petitioner, the learned counsel appearing for the complainant has also not been able to show from the report that the petitioner was given notice before the visit of the Block Development Officer.

3. By virtue of the interim orders passed by this court dated 20.03.2023, a report was called

from the Taluka Inspector of Land Records, Chalisgaon (TILR) to verify the land records and report on the aspect of the constructed area of the petitioner and whether the petitioner has made encroachment on a public and government land. The TILR, in pursuance of the order dated 20.03.2023 has submitted the report. However, the parties submits that, although, the TILR has submitted the report it was in absence of both the parties.

4. In view of the same, the orders passed by the authorities are set aside. The matter is remitted back to the Collector. The Block Development Officer, Panchayat Samiti, Chalisgaon to prepare the report of encroachment in presence of both the parties after notice to both the parties. The parties to remain present before the Block Development Officer, Panchayat Samiti, Chalisgaon on 25.09.2023, so as to fix a date for spot inspection. The Block Development Officer to prepare the report after inspection of construction of the petitioner in presence of both the parties. After the report is received from

both the authorities, the Collector to decide the Dispute Application No.62 of 2021 in accordance with law and the same is restored to the file of the Collector, Jalgaon.

5. The writ petition is disposed of accordingly. The pending civil application is also disposed of.

[ARUN R. PEDNEKER, J.]

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