

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

**Writ Petition (WP) No. 8095 of 2022**

Shashista Eliaz Pathan

**Versus**

Additional Commissioner, Nagpur Division, Nagpur and others

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

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Court's or Judge's Order

Shri Laique Hussain, Advocate for the petitioner.

Shri Deepak Thakare, Addl. Government Pleader for  
the respondent nos. 1 to 4.

Shri Bhojraj S. Dhandale, Advocate for the respondent  
no.6.

**CORAM : ANIL S. KILOR, J.**

**DATED : 13<sup>th</sup> APRIL, 2023.**

Heard.

2. This writ petition is arising out of disqualification of the petitioner as Up-Sarpanch of Village Panchayat Deolapar, on the ground that the petitioner has encroached upon the Government Land.

3. The petitioner was elected as Upa-Sarpanch on 11<sup>th</sup> February, 2020. Thereafter, on 21<sup>st</sup> June, 2021 the respondent no.6 filed a proceeding for disqualification of the petitioner under Section 14(1)(j-3) of the Maharashtra Village Panchayat Act, 1958 (in

short hereinafter referred as 'M.V.Act, 1958'). It was alleged in the said application that the petitioner and her husband have made an encroachment over the land survey no. 193, Mauza Devlapar, Tah. Ramtek, Dist. Nagpur, belongs to the State Government. It was further alleged that petitioner and her husband have constructed shop which is admeasuring 70 square meter and even the affidavit was given by the husband of the petitioner for mutation of the said shop in the name of her husband.

4. After receiving the complaint, the Additional Collector issued notice and thereupon, the petitioner has filed her reply opposing the said application.

5. The Additional Collector after considering the report of the Tehsildar and other evidence, disqualified the petitioner vide order dated 26<sup>th</sup> September, 2022.

6. The petitioner feeling aggrieved by the same, carried an appeal before the Additional Commissioner which came to be dismissed vide impugned order dated 9<sup>th</sup> November, 2022, the same is the subject matter of the present writ petition.

7. After going through the record, it is evident that there is ample evidence available on record to show

that the husband of the petitioner encroached upon the Government land and has constructed the shop admeasuring 70 square meter and for the mutation an affidavit was submitted. The husband of the petitioner by submitting such affidavit, admitted the encroachment over the Government land.

8. Moreover, the fact that the National Highway Authority paid the compensation to the husband of the petitioner for the structure constructed by the husband of the petitioner and the documents i.e. tax receipt in respect of the said shop and payment of taxes for the said shop as per the demand of the Gram Panchayat sufficiently demonstrates that the husband of the petitioner has encroached upon the Government land.

9. Thus, the fact that the husband of the petitioner received the compensation, he paid the taxes and the affidavit which he filed for mutation, take to only one conclusion to which the learned Additional Collector and learned Additional Commissioner have reached, that, the husband of the petitioner had encroached upon the Government land.

10. In the circumstances, the submission of the learned counsel for the petitioner that in the panchanama the said shop was found to be in possession

of one Akhil Masjid Sheikh will not rescue the petitioner from the clutches of the disqualification.

11. In view of the above referred observations, I do not find any error committed by both the authorities below in disqualifying the petitioner. Hence, the writ petition is dismissed.

[ANIL S. KILOR, J.]

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K NAIR

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