



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

14 WRIT PETITION NO. 11182 OF 2023

SOMINATH BABULAL SONAWANE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS

WITH

WRIT PETITION NO. 11183 OF 2023

MIRABAI BALASAHEB BUTTE

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS

WITH

WRIT PETITION NO. 11177 OF 2023

KISHOR RAMESH PANDIT

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS

Mr.S.S. Thombre, Advocate for the petitioners.

Mr.R.K. Ingle, AGP for the respondent-State.

Mr.V.P. Narwade, Advocate for respondent Nos. 5 and 6.

Mr.H.A. Patankar, Advocate for respondent Nos. 8 to 10.

CORAM : KISHORE C. SANT, J.

DATE : 10.09.2024

PC :-

01. All these petitions are arising out of similar proceedings. All the petitioners are elected Members to the Grampanchayat, Dahegaon, Tal. Vaijapur, Dist. Aurangabad. The disputes came to be filed by the respective disputants. The disputants approached the learned Collector seeking declaration that the petitioners have incurred disqualification

under section 14(1)(j-1) of the Maharashtra Village Panchayats Act, as the petitioners/family members have encroached upon public /Government lands. The learned Collector accepted the report and declared the petitioners as disqualified. In the appeals by the petitioners, the learned Divisional Commissioner confirmed the finding recorded by the learned Collector. Thus, the petitioners are before this Court.

02. The learned Advocate for the petitioners vehemently argued that before the learned Collector there was no proper report submitted by the Tahsildar showing exact encroachment. No measurements of the properties are mentioned. The extent of encroachment is also not mentioned in any of the reports.

03. This Court has gone through the reports. From the reports submitted by the Circle Officer, it does appear that there is only vague observation made that there appears to be encroachment on the public/Government land. However, in the reports there is no specific measurement and the extent of encroachment is mentioned. The reports by the Circle Officer are prepared on the basis of panchanama. Even in the panchanama, nothing is mentioned by giving exact measurement

etc.

04. This Court, thus, finds that when an Authority accepts a report prepared by Tahsildar, it is expected to see that the report is accurate and as far as possible give specific details sufficient to record clear finding on the basis of such report. It was necessary for the Collector to call for such report. It needs to be taken note that an order passed by the Collector of disqualification is a drastic order, affecting rights of the a party. To make unseat a democratically elected member is serious thing. It is, therefore, necessary to take sufficient care while passing such orders. It is for this reason specific reports are required.

05. Considering the above, this Court finds it appropriate to remand the matters to the learned Collector.

06. Thus, the writ petitions are partly allowed. The impugned orders passed by the learned Collector dated 10.03.2023 and the orders passed by the learned Commissioner dated 10.08.2023 stands quashed and set aside. The respective disputes stand restored to the file of the learned Collector. The learned Collector to call for detailed report from the concerned authority and then to decide the disputes within four

months from today.

07. The writ petitions are accordingly disposed off with no order as to costs.

08. Parties to act upon authenticated copies of this order.

[KISHORE C. SANT, J.]