

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

WRIT PETITION NO. 6659 OF 2024

MAROTI JAKOJI EDKEWAR

VERSUS

**THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS**

...

Mr. Hamzakhan I. Pathan, Advocate for the Petitioner.

Mr. V. M. Jaware, AGP for Respondent Nos.1 and 2.

Mr. S. B. Pulkundwar, Advocate for Respondent No.3.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : 03rd JULY, 2024.

P.C.:-

1. Heard Mr. Pathan, learned Advocate appearing for the petitioner, Mr. Jaware, learned A.G.P. for respondent nos.1 and 2 and Mr. Pulkundwar, learned Advocate appearing for respondent no.3.

2. Mr. Pathan, learned Advocate appearing for the petitioner points out that only on the basis of the report of the Block Development Officer, the learned Collector has drawn conclusion that the petitioner has incurred disqualification in terms of Section 14 (J) (3) r/w 16 of the Maharashtra Village Panchayat Act, 1958. He would submit that the report of the Block Development Officer stipulates that *prima facie* the construction of the petitioner appears within the limit of the National Highway. Pertinently, there is no notice issued by the National Highways Authorities for removal of the encroachment nor there is any conclusive evidence to show that the construction of the petitioner stand within the line of National Highway. The impugned order passed by the learned Collector is based on *prima facie* opinion expressed by the Block

Development Officer without ascertaining the factual aspect from the National Highways Authority of India.

3. In that view of the matter, *prima facie*, the impugned order appears to be fallacious. Hence, issue notice to the respondents, returnable on 14.08.2024. The learned A.G.P. waives notice for respondent nos.1 and 2. Mr. Pulkundwar, learned Advocate waives notice for respondent no.3.

4. Till then, there shall be ad-interim relief in terms of prayer Clause (D).

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/July-2024