

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.13960 OF 2023.**

Mahendra Lalaso Deshmukh

...Petitioner.

**Versus**

The State of Maharashtra and Ors.

...Respondents.

**WITH**

**INTERIM APPLICATION (ST) NO.4576 OF 2024.**

**IN**

**WRIT PETITION NO.13960 OF 2023.**

Sneha Digambar Deshmukh and Ors.

...Applicants.

**Versus**

Mahendra Lalaso Deshmukh

...Respondents.

---

*Mr. Bhalchandra S. Shinde a/w. Mr. Abhijeet V. Jangale for the Petitioner.  
Mr. Suryajeet P. Chavan for the intervenor.  
Ms. S. D. Chipade, AGP for the respondent-State.*

---

**Coram : Sharmila U. Deshmukh, J.**

**Date : 25<sup>th</sup> June, 2024.**

**P. C. :**

1. Heard.
2. By this petition, the challenge is to the order dated 30<sup>th</sup> October, 2023 passed by the Additional Commissioner in Appeal No.10 of 2022 confirming the order dated 2<sup>nd</sup> December, 2022 passed

by the District Collector in Gram Panchayat Complaint No.11/2021. By the impugned orders the Petitioner has been disqualified under the provisions of Section 14 (1) (g) of the Maharashtra Village Panchayat Act, 1959.

**3.** The facts of the case are that the Petitioner was elected as member of Nimsod Gram Panchayat, Nimsod on 18<sup>th</sup> January, 2021 and was appointed as Sarpanch of the said Gram Panchayat on 27<sup>th</sup> February, 2021. Gram Panchayat Dispute No.11 of 2021 came to be filed by respondent No.4 contending that the Petitioner has not given the correct information as on 15<sup>th</sup> July, 2020 the Petitioner's brother Santosh Deshmukh had made an application to the Gram Panchayat seeking two open plots of land on rent for carrying out business. Pursuant to the said application property no.504 and 716 to the extent of 15 x 15 square feet was given on rent to the Petitioner's brother upon execution of rental agreement on Rs.100/- stamp paper. It was contended that the period of rent was from 1<sup>st</sup> August, 2020 till 31<sup>st</sup> July, 2021. It was therefore prayed that in view of the agreement having been entered into between the Gram Panchayat, the provisions of Section 14 (1) (g) be invoked disqualifying the Petitioner.

**4.** The said application came to be resisted by the Petitioner contending that the said agreement on Rs.100/- stamp paper is a

forged and fabricated document. It was specifically denied that any application was made by the Petitioner's brother on 15<sup>th</sup> July, 2020 for seeking allotment of Gram Panchayat property on rent. It was further contended that as far as the resolution of 29<sup>th</sup> July, 2020 by virtue of which property is said to be given on rent to the Petitioner's brother is concerned the same does not have signature of the Sarpanch and is therefore illegal. As regards the agreement, it was contended that on the said agreement there is neither signature of Petitioner's brother nor the signature of Sarpanch or any Gram Sevak and it is signed only by witnesses.

**5.** The parties were heard and by order dated 2<sup>nd</sup> December, 2020, the Collector allowed the application. As against this an appeal came to be filed before the Additional Divisional Commissioner. The Additional Divisional Commissioner by order dated 30<sup>th</sup> October, 2023 rejected the appeal thereby confirming the order of the Collector.

**6.** Learned counsel appearing for the Petitioner has taken this Court through the alleged agreement of rent and would point out that there is no signature of Petitioner's brother or by the Sarpanch or any other Gram Sevak and is signed only by two witnesses. He would further submit that as far as the resolution by which it was agreed to give two Gram Panchayat properties on rent to the Petitioner's

brother is concerned it does not contain signature of the Petitioner's brother and only Gram Panchayat Vikas Adhikari has signed the same. Pointing out to the order of Additional Collector and Additional Divisional Commissioner, he submits that both the Authorities have factually erred by holding that the Application of 15<sup>th</sup> July, 2020 purported to have been filed by the Petitioner's brother, has been signed by the Gram Sevak. He would further submit that the authorities have factually erred by holding that on the rent agreements the Gram Sevak has affixed the signature. He submits that based on the erroneous findings, the appeal came to be rejected by the Additional Divisional Commissioner.

**7.** Learned AGP would submit that the findings of Additional Divisional Commissioner are well reasoned findings. She would further point out that the Additional Divisional Commissioner has held on the basis of the records that the Petitioner and his brother were residing together and therefore are part of the joint family and as such the house which has been allotted on rent by the Gram Panchayat is being enjoyed by the Petitioner and his brother jointly.

**8.** Considered the submissions and perused the record.

**9.** Before proceeding to the facts of the present case, it will be

profitable to reproduce Section 14(1)(g) of the Maharashtra Village Panchayat Act which reads as under:

*"No person shall be a member of a panchayat and continue as such, who -*

*(a)...*

*(b)...*

*(c)...*

*(d)...*

*(e)...*

*(f)...*

*(g) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the panchayat or in any contract with, by or on behalf of, or employment with or under, the panchayat.*

*(h)...*

*(i)...*

*(j)..."*

**10.** Plain reading of the Section 14(1) (g) would indicate that disqualification would be incurred whenever a person directly or indirectly by himself or his partner enters into any contract with or under the panchayat. In the present case, respondent No.4 seeks disqualification of the Petitioner on the ground that the Petitioner's

brother had entered into rental agreement in respect of Gram Panchayat property and that the same was approved by the Gram Panchayat in its resolution. In that context, if the say of the Petitioner is perused it has been specifically denied by him that any application was made by his brother for allotment of any land of Gram Panchayat for the purpose of carrying on the business. In view of the submissions raised by the Petitioner, it was incumbent upon the Collector as well as Additional Divisional Commissioner to examine the said issue and give reasoned findings before passing the order disqualifying the Petitioner. Perusal of the application dated 15<sup>th</sup> July, 2020 which is at page 4 of the petition would indicate that there is some signature at the end of the letter. However there is no stamp of the Gram Panchayat. The rent agreements which are at page 50 and 52 of the petition are neither signed by the Petitioner's brother nor by the Gram Vikas Adhikari or any other member of the Gram Panchayat and has been signed only by two witnesses. On the basis of the un-executed agreements, it cannot be conclusively established that the petitioner's brother has entered into any contract with the Gram Panchayat.

**11.** It also needs to be noted that the Petitioner was elected as Sarpanch on 27<sup>th</sup> February, 2021 and even if application for allotment

is accepted, the same is filed on 15<sup>th</sup> July, 2020 and the alleged agreements are stated to have been executed on 1<sup>st</sup> August, 2020. In view of the specific contentions raised by the Petitioner in his reply *qua* the agreements contending that the same have not been signed it was incumbent upon the Additional Collector and Additional Divisional Commissioner to carefully scrutinize the agreements and deal with the submissions raised by the Petitioner.

**12.** Perusal of the impugned order of the Additional Collector would indicate that erroneously factual finding is arrived at as regards the application dated 15<sup>th</sup> July, 2020 that the same has been signed by the Gram Sevak as well as in respect of the agreements dated 1<sup>st</sup> August, 2020 that the same has been signed by the Gram Sevak. Similar finding has been arrived at by the Additional Commissioner. It is therefore clear that there is a complete misapplication of mind by the Additional Collector and the Divisional Commissioner while passing the impugned order. It needs to be noted that by the Dispute Application filed by respondent No.4 what was being sought was removal of a elected member and Sarpanch of Gram Panchayat. In a democratic set up after the election process is carried out and a person is elected as member and Sarpanch of Gram Panchayat before an order of disqualification is passed there must be a stringent

inquiry. In the present case, perusal of the impugned orders would indicate that same has been passed without application of mind and in most casual manner leading to factually erroneous findings. As regards the contentions of learned AGP that there is a finding on record that the Petitioner and the brother are part of the joint family, it needs to be noted that the disqualification was under the provisions of Section 14 (1) (g) of the Act and unless it is shown that the Petitioner's brother has entered into contract with the Gram Panchayat the fact that they were staying together is totally irrelevant for the present purpose. As the contention was that rent agreements were entered into for period from 1<sup>st</sup> July 2020 till 31<sup>st</sup> July, 2021 between the Petitioner's brother and the Gram Panchayat, there would be rent payments made by the Petitioner's brother. In the present case, we find no such material on record. The Additional Collector as well as the Divisional Commissioner have wrongly accepted the so-called agreements alleged to have been entered into between the Petitioner's brother and the Gram Panchayat without noticing that the same has not been executed either by the Petitioner's brother or by the Gram Panchayat.

**13.** In light of the above, the findings of the Additional Collector and the Divisional Commissioner are clearly unsustainable in law and

consequently the petition succeeds. The order of the Collector dated 2<sup>nd</sup> December, 2022 and the order of the Divisional Commissioner dated 30<sup>th</sup> October, 2023 are hereby quashed and set aside. In view of disposal of petition, Interim/Civil Applications, if any, do not survive for consideration and stand disposed of.

**[Sharmila U. Deshmukh, J.]**