

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1136 OF 2024

VAIBHAV
RAMESH
JADHAV
Digitally signed by
VAIBHAV RAMESH
JADHAV
Date: 2024.01.29
17:35:54 +0530

Madhavi Sunil Hubale

... Petitioner

V/s.

Additional Divisional Commissioner,
Pune Division & Ors.

... Respondents

WITH

WRIT PETITION NO.616 OF 2024

Nagnath Shankar Kangude

... Petitioner

V/s.

Additional Divisional Commissioner,
Pune Division & Ors.

... Respondents

Mr. L. S. Deshmukh i/by Mr. Adesh R. Kale for the
petitioner in both WPs.

Mr. Sachin Kankal, AGP for the State/respondent
Nos.1 and 2 in WP/1136/2024.

Mr. Y.D. Patil, AGP for the State/respondent Nos.1 and
2 in WP/616/2022.

Ms. Manisha Devkar with Mr. Shankar Katkar for
respondent Nos.3 and 4 in both WPs.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 29, 2024

P.C.:

1. Both the writ petitions arise out of an order of
disqualification passed by the Collector in exercise of power under

section 14(1)(j-3) and section 16(2) of the Maharashtra Village Panchayat Act, 1958.

2. The petitioners were served with a show cause notice contending that the family members of the petitioners encroached over the land owned by the gram panchayat. The petitioners contested the show cause notice by filing reply. The Collector appointed Block Development Officer to inspect the location of alleged encroachment. The Block Development Officer visited the site and submitted a report that family members of the petitioners have encroached over the land owned by the village panchayat.

3. On perusal of the report submitted by the Block Development Officer, it appears that the Block Development Officer has given sufficient details of the construction carried out by the petitioners' family members. There is no dispute that the land owned by the gram panchayat. Therefore, the Collector based on report of the Block Development Officer disqualified the petitioners from continuing as members of the gram panchayat.

4. The petitioners challenged the order passed by the Collector before the Commissioner. The Commissioner, by the impugned order, dismissed the appeal filed by the petitioners recording a finding based on report of the Block Development Officer that the petitioners' family members have encroached over the land owned by the gram panchayat.

5. The factual findings recorded by the Collector and the Commissioner are based on admissible material on record namely Block Development Officer's report and assessment extracts. Once

the finding of fact recorded by the Collector confirmed by the Commissioner is found to be correct, the legal inference to be drawn is covered by the judgment of the Apex Court in the case of **Janabai vs. Additional Commissioner and Others**, reported in 2018 (18) SCC 196. The Apex Court has held that if the encroachment is by the family member with others and/or individually, either at one time or at different times remains hardly of any significance and such person is liable to be removed under section 53 of the Maharashtra Village Panchayat Act, 1958. Therefore, there is no legal infirmity in the order.

6. The writ petitions stand disposed of. No costs.

(AMIT BORKAR, J.)