

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 18424 OF 2024.

Chetana Rakesh Mahale

...Petitioner.

Versus

The State of Maharashtra and Others.

...Respondents.

Mr. Anuj Tiwari for Petitioner.

Ms. Sayli Wani for Respondent No.6.

Ms. V. S. Nimbalkar, AGP for Respondent-State.

Coram : Sharmila U. Deshmukh, J.

Date : December 16, 2024.

P. C. :

1. By this petition, the challenge is to the order of disqualification of the Petitioner who was elected as Sarpanch.
2. Learned counsel for Petitioner would point out that the encroachment was alleged in respect of Property bearing No. 383 which was in the name of petitioner's mother-in-law and there was material produced to show that petitioner was residing separately from mother-in-law. He would further submit that though the encroachment was alleged in respect of Gram Panchayat Property No. 383, subsequently, the report was submitted which included encroachment in respect of Property bearing No.922 belonging to petitioner's husband after the petitioner had submitted her reply and the copy thereof was not furnished to the Petitioner. He would further

point out the finding in the order of Collector that the encroachment alleged is of the first floor balcony over the road.

3. Learned counsel for Respondent No.6 seeks time to file reply.
4. The complaint was made in respect of the encroachment of Gram Panchayat Property No. 383. The reply of the petitioner *prima facie* demonstrates that petitioner was not beneficiary of the said encroachment as she was residing separately which is evidenced from the fact that subsequently Property bearing No.922 belonging to husband is also stated to be an encroachment. The Gram Panchayat Property No. 922 stated to be belonging to her husband would infact substantiate that she was residing separately from the mother-in-law and therefore, not a continued beneficiary of the encroachment. That apart, *prima facie* it appears from the impugned order that the encroachment as far as Gram Panchayat Property No.383 is concerned is as regards a balcony on the first floor protruding over the road.
5. *Prima facie* case for grant of ad-interim relief is made out. Ad-interim relief in terms of prayer clause 'c' is granted which reads thus:

c) Pending hearing and final disposal of the writ petition, kindly grant stay to effect, execution and operation of the impugned order dated 04.10.2024 passed by the respondent no.2 Additional Divisional Commissioner, Nashik in Gram Panchayat Appeal No.49/2024 as well as order dated 02.05.2024 passed by the respondent No.3 Upper District Collector, Malegaon in File No. Gram Panchayat/Dispute Application/54/2023.

6. List the petition for further consideration on **17th January, 2025** under the caption for 'Circulation'.

[Sharmila U. Deshmukh, J.]