



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.537 OF 2024

(Ashwini Amol Dhakulkar Vs. The Additional Commissioner, Amravati Division,
Amravati and others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. S. M. Vaishnav, Advocate for Petitioner.
Ms. Kalyani P. Marpakwar, Advocate for Respondent Nos.1 to 3/State.
Mr. N. A. Gawande, Advocate for Respondent No.5.

CORAM: N. R. BORKAR, J.

DATE: 7th OCTOBER, 2024.

This petition takes exception to the order dated 4th January, 2024 passed by respondent No.1 the Additional Commissioner, Amravati Division, Amravati in Appeal No.45/BVP/Sec.16(2)/Khanapur/2023.

2. The petitioner was elected as Member of Gram Panchayat, Khanapur. The respondent No.5 herein had filed an application before respondent No.2 – the Additional Collector, seeking disqualification of the petitioner in terms of Section 14 (1)(J-3) of the Maharashtra Village Panchayat Act for having encroached upon the government land. Respondent No.2 allowed the said application by order dated 17th April, 2023.

3. By the order impugned, respondent No.1 has dismissed the appeal filed by the petitioner against the order of respondent No.2.

4. I have heard the learned counsel for the petitioner, learned Assistant Government Pleader for respondent Nos.1 to 3 and the learned counsel for respondent No.5.

5. The learned counsel for the petitioner submits that respondent No.2 to allow the application filed by respondent No.5 has relied upon the measurement report of respondent No.3. It is submitted that notice of measurement was not given to the petitioner. It is submitted that even otherwise there is nothing to show that alleged encroached area is a government land.

6. On the other hand the learned counsel for the respondent No.5 submits that notice of measurement was given to the father-in-law of the petitioner who is the owner of properties in question. It is submitted that encroachment is apparent from the measurement report.

7. I have perused the impugned orders and measurement report. The measurement report is silent on the crucial aspects i.e. nature of encroachment and whether the alleged encroached area is a government land. The orders impugned based on such report can not be allowed to stand. The orders impugned are therefore, set aside. The matter is remanded back to respondent No.2 for deciding it afresh.

8. The petition is disposed of in the aforesaid terms.

9. The respondent No.2 shall endeavour to decide the matter within a period of three months from the date of receipt of the copy of this order.

(N. R. BORKAR, J.)

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