



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.791 OF 2025**

Rupali Kavardas Patil,

Age: 37 years, Occ.: Household,

R/o. Vikharan, Tq. Shirpur,

District Dhule

..Petitioner

Versus

1. The State of Maharashtra
Through Collector, Dhule,
Tq. and District Dhule.

2. Additional Divisional Commissioner,
Nashik Division, Nashik.

3. Sachin Vasantrao Patil,
Age: 45 years, Occu. Agri.,
R/o. Vikharan, Tq. Shirpur,
District Dhule.

..Respondents

...

Mr. L. V. Sangit, Advocate for Petitioner.

Mr. S. P. Joshi, AGP for Respondents-State.

Mr. M. K. Bhosale, Advocate for Respondent No.3.

...

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 16th JUNE, 2025.**

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of the parties, matter is taken up for final hearing at admission stage.

2. The petitioner impugns judgment and order dated 16.12.2024 passed by Additional Divisional Commissioner, Nashik Division in Grampanchayat Appeal No.61/2024, thereby upholding judgment and order dated 05.07.2024 passed by District Collector, Dhule in Grampanchayat Dispute Application No.41/2023.

3. The petitioner has been elected as Member of Village Panchayat Vikharan, Taluka Shirpur in the year 2020. The respondent no.3 initiated dispute before District Collector, Dhule seeking disqualification of petitioner under Section 14(J-3) of Maharashtra Grampanchayat Act, 1959 (for short “the Act”) contending that petitioner/her family members have encroached upon Government land. As such, incurred disqualification to continue as Member. The learned District Collector, Dhule relying upon enquiry report dated 21.03.2024 submitted by Block Development Officer, Panchayat Samiti, Shirpur concluded that mother-in-law of petitioner has encroached upon Government land bearing No.1429, hence, petitioner had incurred disqualification to hold post of Member of Village Panchayat, Vikharan. Aggrieved petitioner filed Appeal before Additional Divisional Commissioner, Nashik Division, who dismissed Appeal, upholding order of disqualification passed by District Collector, Dhule.

4. Mr. Sangit, learned Advocate appearing for petitioner submits that petitioner had taken specific stand that petitioner is not residing in joint family alongwith her in-laws. Even it is assumed that mother-in-law of petitioner is in occupation of Government land, petitioner would not incur disqualification contemplated under Section 14(J-3) of the Act. Mr. Sangit would further invite attention of this Court to enquiry report of Block

Development Officer and points out that Grampanchayat Property No.1429 is open space admeasuring 6500 sq. ft.. There is no construction or encroachment. Merely because entry as to the possession of petitioner's mother-in-law is appearing in the Grampanchayat record, petitioner cannot be disqualified.

5. Per contra, Mr. Bhosale, learned Advocate appearing for respondent no.3 vehemently submits that old Ration Card clearly depicts that petitioner is jointly residing with other family members including her in-laws. According to him, Supreme Court of India in case of ***Janabai Vs. Additional Commissioner and others¹*** has clearly indicated that encroachment by family members on Government land or public property can also be treated as joint encroachment by others and, therefore, disqualification would be attracted. According to him, both authorities have rightly appreciated material on record and passed disqualification order against petitioner, which need not be interfered.

6. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that thrust of disqualification order passed against petitioner is based on enquiry report dated 21.03.2024 submitted by Block Development Officer, Panchayat Samiti, Shirpur. The aforesaid

¹ 2018 (5) Mh.L.J. 921.

enquiry report indicates that in all four properties standing in the name of petitioner's family members. The Grampanchayat House Nos.476 and 477 are mutated in the name of petitioner's husband. Both these properties are having RCC construction. The Grampanchayat Property No.1429 is in the name of Government, but, shown to be occupied by Subhadrabai Bhaidas Patil i.e. mother-in-law of petitioner. It is open space without construction on site. Record do not indicate that open space is occupied or used by petitioner or her family members. It is not the case that some construction is made or activity is carried by petitioner or her family member on open plot. The evidence on record is insufficient to draw definite conclusion that petitioner is jointly residing with her mother-in-law Subhadrabai, who is shown in occupation of Grampanchayat Property No.1429.

7. At this stage, reference can be given to observations of this Court in case of ***Sanjay s/o Babanrao Gawande Vs. Pradip s/o Dhanraj Gawande & Ors.***², particularly paragraph no.9, which reads thus:

“In the instant case, Pradip is not found to be cultivating land. There is no constructed hut or house in the agricultural field, which can be said to be occupied by Pradip. His father Dhanraj appears to have admitted in the spot inspection that he had encroached upon government land and was willing to immediately remove the said encroachment. However, there is no involvement of Pradip and the records do not indicate that he has been enjoying the encroached portion or has inherited the encroached

*portion. In this backdrop, the view taken by the Hon'ble Apex Court in **Janabai [2018 (6) ALL MR 930 (S.C.)]** (supra) would not apply to this case."*

8. Apparently, Single Judge of this Court while giving reference to observations of Supreme Court of India in case of **Janabai** (supra) held that in absence of specific evidence as to encroachment on the Government land, disqualification under Section 14(1)(J-3) would not attract. In present case, evidence indicates that open space is shown occupied by mother-in-law of petitioner. However, there are no allegation/evidence as to specific use of such open space by petitioner or her family members.

9. Mr. Sangit, learned Advocate appearing for petitioner rightly relied upon observations of Supreme Court of India in case of **Manisha Ravindra Panpatil Vs. The State of Maharashtra and Ors.**³, particularly paragraph no.10, which reads thus:

"That being said and having regard to the facts and circumstances of the case at hand, we see no credible and convincing material on record to substantiate the private respondents' allegations of encroachment of government land by the appellant before or post her election as Sarpanch. All that we would like to reiterate is that the matter of removal of an elected public representative should not be treated so lightly, especially when it concerns women belonging to rural areas. It must be acknowledged that these women who succeed in occupying such public offices, do so only after significant struggle."

10. In light of aforesaid observations and factual aspects of this matter, it is difficult to hold that only because mother-in-law of

petitioner is shown in occupation of open space in Grampanchayat record, petitioner can be branded as encroacher, so as to incur disqualification contemplated under Section 14(1)(J-3) of the Act. Both the Courts have mechanically relied upon enquiry report of Block Development Officer, which sans requisite particulars as to the encroachment. Further evidence on record is insufficient to draw definite conclusion that petitioner is jointly residing with her mother-in-law. In that view of the matter, following order is passed:

ORDER

- a. Writ Petition is allowed in terms of prayer Clause (A).
- b. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE