



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1818 OF 2025

MANYABAPU RAOSAHEB SHENDGE
VERSUS
THE DIVISIONAL COMMISSIONER NASHIK AND OTHERS

Mr. A. D. Sonkawade h/f Mr. A. V. Hon, Advocate for the Petitioner
Mr. S. K. Shirse, AGP for Respondent Nos.1 and 2/State
Mr. Amol S. Gandhi, Advocate for Respondent No.4.

CORAM : ARUN R. PEDNEKER, J.

DATE : 12/11/2025

P.C. :-

1. By the present writ petition, the petitioner challenges the order dated 09/12/2024 passed by the Collector, Ahilyanagar in Grampanchayat Dispute Application No. 25/2024 and order dated 09/01/2025 passed by the Additional Commissioner, Nashik Division, Nashik in Gram Panchayat Appeal No. 128/2024 disqualifying the petitioner as a Sarpanch and the Member of the Grampanchayat Ghorpadwadi.

2. Brief facts, giving rise to the present writ petition, can be summarised as under :-

. The Petitioner was elected as a Sarpanch of the

Grampanchayat Ghorpadwadi in the year 2023 for a term of five years. The respondent No.4 had filed an application under Section 14(j-3) of the Maharashtra Village Panchayat Act, 1959 (hereinafter referred to as the 'Act' for short) for disqualification of the petitioner on the ground that the father of the petitioner, namely, Raosaheb Maruti Shendge has encroached upon the Government land and since the petitioner was residing with his father as a joint family he has incurred disqualification.

3. The case of the complainant is that the petitioner's father has encroached upon the Government *gairan* land in the village i.e. in Gut No.10. The petitioner's family land is in Gut No. 57 which is adjacent to Gut No. 10 where the father of the petitioner has made encroachment on Government land. The village panchayat had issued Notice dated 10/11/2022 to the father of the petitioner, wherein it was stated that the father of the petitioner has encroached upon the Government land admeasuring 800 sq.mts in Gut No.10 which is a Government *gairan* land and therefore directed to remove the encroachment. The Talathi had also submitted a report along with list of encroachers to the Tahasildar, Rahuri with regard to the encroachment made by

various persons on Government *gairan* land in Gut No. 10 situated at village Ghorpadwadi and the said list included the name of the father of the present petitioner at sr. no. 83. It was thus submitted in the application that a Government record clearly shows that there is an encroachment by the father of the present petitioner on the Government *gairan* land situated at village Ghorpadwadi. It is stated that the petitioner's father has constructed a tin shed for storage of onion by encroaching upon the Government *gairan* land which is adjacent to his land. On the fact finding report being called by the Collector, the Block Development Officer, Panchayat Samiti, Rahuri also submitted his report dated 19/09/2024 to the Tahasildar stating that the father of the petitioner was served with the notice informing the removal of encroachment made on the Government *gairan* land in Gut No.10. Report also indicates that the tin shed is constructed by encroaching upon the Government land.

4. The petitioner defended the proceedings by contending that the petitioner and in his father are residing separately and that the measurement of Gut No.10 was disputed. The said Gut was adjacent to the land of the petitioner's father. It was also stated

that the father of the petitioner has not encroached upon the Government land and there are no entries made in this regard in the Grampanchayat record.

5. In response to the notice issued by the Collector the Petitioner contended before the Collector that the tin shed made for the storage of onion is owned by one Sarjerao Thorat and the Grampanchayat Ghorpadwadi had taken action against him in pursuant to the resolution No. 06/2 dated 30/01/2024. It is also contended by the petitioner that the name of the father of the petitioner is not appearing on form No.8 of land Gut No.10 which is Government *gairan* land and thus he has not encroached upon the same.

6. Having considered the rival submissions the Collector disqualified the petitioner holding that the petitioner's father has encroached upon the land Gut No. 10. The Collector took into consideration the notice of removal of encroachment upon the father of the petitioner dated 10/11/2022 and that there was no response given by the father of the petitioner. The Collector also held that there is no encroachment by Mr. Sarjerao Thorat. It is

also seen that from the ration card that the father of the petitioner along with the family members are staying jointly. In 2024 the family of the petitioner along with his father have taken benefit of the Government scheme. Considering this aspect of the matter and relying upon the judgment of *Janabai Versus Additional Commissioner and others, 2019(1) SCC 272*, the Collector disqualified the petitioner as a member and the Sarpanch of the village panchayat, for having encroached on Government land. The order of the Collector has been upheld by the Additional Commissioner in an appeal filed by the petitioner.

7. Challenging the order passed by the Authorities below, the learned counsel for the petitioner contended that the petitioner and his father are residing separately. They are not staying in a joint family and that the petitioner had applied for measurement of disputed Gut Nos.10 and 57 which are adjacent to each other. However, measurement has not been carried out and therefore, there was no material on record to come to the conclusion that there is an encroachment made by the father of the petitioner.

8. Considered the rival submissions and I have also

perused the order of the Collector as well as the Appellate Authority. The authorities have relied upon the report of the Talathi, Rahuri dated 11/11/2022, wherein the Talathi has provided names of 107 persons who had encroached upon the Government land. The petitioner's father's name is at sr. no. 83. It is mentioned that the father of the petitioner has encroached upon the Gut No. 10 admeasuring 800 sq.ft land. Ration card bearing No.203786 shows names of 6 adult and 2 children total 8 persons, wherein the name of present petitioner is also mentioned in the ration card along with the father of the petitioner. So also, ration was lifted by the petitioner as a joint family which indicate that the petitioner is living in the joint family with his father. One Mr. Sarjerao Thorat had made an application dated 25/01/2024 to the village panchayat for regularization of the onion shed constructed in Gut No.10. However, the report of Talathi does not indicate the name of Sarjerao Thorat as an encroacher of Gut No.10. On spot verification of Gut No.10 by the Block Development Officer it was found that there was a tin shed on Gut No.10. The same tin shed belongs to the father of the petitioner and the same can be seen from the notice given to the father of the petitioner. Considering this aspect

there is no contra material on record to indicate that the petitioner's father has not encroached upon the Government land. There is no response to the notice of removal of encroachment by the father of the petitioner. Both Authorities below have concurrently held that the petitioner's father has encroached upon the Government land in Gut No.10. Gramsevak (Officer of the Panchayat) has submitted a report dated 05/08/2024 on encroachment to the Block Development Officer. The Gramsevak in his report has stated that he has visited the place of encroachment and conducted spot inspection of the place of alleged encroachment. When he visited the shed one Mr. Sarjerao Ramdas Thorat claimed that the shed belongs to him and that he had made an application for the shed to be regularization in his name on 29/01/2024. However, the Grampanchayat in the monthly meeting dated 30/01/2024 in terms of the resolution no.6/2 directed removal of the said construction being on the *gairan* land. As such, the Grampanchayat issued notice to the Sarjerao Ramdas Thorat. In response to the notice Sarjerao Ramdas Thorat has stated that the large number of people have encroached upon the Government land on Gut Nos.10 and 11. The report of Gramsevak mentions that

the petitioner's father has not made encroachment on Gut No.10. The petitioner has placed reliance on this report of the Gramsevak. It is to be noted that the Gramsevak is the officer of the village panchayat. There is no denial to the notice of encroachment being received by the father of the petitioner of the alleged encroachment on Gut No.10. The authorities have rightly rejected the report of the Gramsevak. The father of the petitioner has received the notice of encroachment on Gut No.10 and that he has not responded to the notice. As regards Mr. Sarjerao Ramdas Thorat claiming to be the owner of the shed by application dated 29/01/2024 is only to absolve the petitioner from the disqualification.

9. The authorities have rightly not relied upon the report of 05/07/2024 of the Gramsevak. The disqualification of the petitioner is based on following established facts. The petitioner and his father are living in joint family. The petitioner's father encroached over Gut No.10 which is a Government land and it is clearly seen in the notice issued to the father of the petitioner. The father of petitioner has not responded to the notice stating that he does not own the property i.e. a tin shed. On spot inspection a tin shed was found on Gut No.10. Ownership of Sarjerao Ramdas Thorat of the

tin shed in Gut No.10 is also doubtful. Considering all these facts, the authorities have held that the father of the petitioner has encroached upon the Government land and disqualified the petitioner, relying upon the law laid down in the case of *Janabai Versus Additional Commissioner and others* (supra).

10. No case is made out for interference, writ petition stands dismissed.

11. The learned counsel for the petitioner submits that interim order passed by this Court be continued.

12. The said request is rejected.

(ARUN R. PEDNEKER, J.)

ssp