



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

955 WRIT PETITION NO. 3305 OF 2023

DADARAO ASHOK APAR

VERSUS

THE DIVISIONAL COMMISSIONER AURANGABAD AND OTHERS

...

Mr. Balasaheb N. Magar – Advocate for Petitioner

Mr. R.B. Dhaware – AGP for Respondent Nos.1 and 2, State

Mr. R.A. Deshmukh – Advocate for Respondent Nos.3 and 4

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 10.12.2025

PER COURT :

1. Heard learned Counsel for the respective parties.
2. By way of this petition, the petitioner who is elected as a member of Gram Panchayat, Madni-Wadali, Tq. Sillod, Dist. Aurangabad challenges the order dated 04.01.2023 passed by the Additional 2nd Divisional Commissioner, Aurangabad in 2022 /grampanchayat /Appeal.2 /CR.76 and the order dated 23.06.2022 passed by respondent No.2, the District Collector, Aurangabad in 2021 /Sa.pra. /gra.pan.A. /Madni-Wadali /Sillod /Section 14 and 16 CR No.75.
3. It is admitted fact that the election were held in 2021. Respondent Nos.3 and 4 filed a complaint against petitioner before the learned District Collector, Aurangabad and the learned Collector allowed the said complaint, resulting in the petitioner's disqualification. Being aggrieved

by the same, the petitioner filed an appeal and the same also came to be dismissed.

4. The petitioner came to be disqualified by the District Collector, Aurangabad, on the ground that the petitioner had encroached upon Government property. The District Collector primarily relied upon the spot inspection reports submitted by the Tahsildar, Sillod and the Block Development Officer. As regards the report of the Block Development Officer, it is stated therein that house property bearing No. 296 stands in the name of the petitioner's father. However, no specific finding has been recorded by the Block Development Officer to the effect that the alleged encroachment was carried out by the petitioner. The said report was relied upon by the Tahsildar. Upon perusal of the reports submitted by the Block Development Officer and the Tahsildar, it is evidence that the authorities have not pointed out that, prior to submission of the reports, a spot inspection was conducted through the T.I.L.R.

5. The orders passed by the District Collector, Aurangabad and subsequently by the Additional Divisional Commissioner are thus founded only on the reports of the Block Development Officer and the Tahsildar. In the absence of a proper measurement and inspection by the T.I.L.R., the material on record is insufficient to establish that the petitioner had encroached upon Government land.

6. In view of the above, I find substance in the arguments advanced

on behalf of the petitioner that the petitioner has not incurred disqualification under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act.

7. This Court vide its order dated 13.04.2023 protected the petitioner and pursuant to that order, the petitioner has continued to hold the post of member.

8. Now, in view of the fact that only two (2) months of the term remains.

9. In view thereof, the Writ Petition is allowed. The order dated 04.01.2023 passed by the Additional 2nd Divisional Commissioner, Aurangabad in 2022 /grampanchayat /Appeal.2 /CR.76 and the order dated 23.06.2022 passed by respondent No.2, the District Collector, Aurangabad in 2021 /Sa.pra. /gra.pan.A. /Madni-Wadali /Sillod /Section 14 and 16 CR No.75 are quashed and set aside.

10. It is made clear that, if petitioner gets elected in fresh elections and commits any such breach in future, respondent Nos.3 and 4 shall be at liberty to file fresh proceedings before the competent authority and the same shall be decided by the authority in accordance with law.

[SIDDHESHWAR S. THOMBRE]
JUDGE