



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

937 WRIT PETITION NO. 5435 OF 2024

HARIDAS DAGDU NEHVAL
VERSUS
TUSHAR SHANKAR KUNJAR AND OTHERS

Mr. A. D. Kasliwal, Advocate for the petitioner
Mr. S. N. Kendre, AGP for the respondent/State
Mr. S. R. Shirsat, Advocate for respondent No.1.
Mr. r. b. Gite, Advocate for respondent No.4

CORAM : R. M. JOSHI, J.
DATE : 2nd MAY, 2025

PER COURT :-

1. By consent of both sides, petition be heard finally at the stage of admission.
2. This petition takes exception to the orders passed by the Collector confirmed by the Additional Commissioner rejecting the complaint filed by the petitioner under the provisions of Section 14(1)(j-3) of the Maharashtra Village Panchayat Act, 1959 (for short 'the Act').
3. Perused record.
4. Heard learned counsel for both sides.
5. It is the case of the petitioner that the contesting respondent is a member of Grampanchayat and has done encroachment over the

public property i.e. plot No. 71 situated at Shivrai, Tq. Gangapur, District. Chhatrapati Sambhajinagar. The allegation against the contesting respondent is that the contesting respondent is the beneficiary of the encroachment being owner of the adjoining plot bearing No. 70 and that by constructing a shade and a toilet block encroachment has been caused on the plot No. 71.

6. Though such allegations are made, there is absolutely no evidence indicate that there is any encroachment upon plot No. 71 much less an encroachment being done by respondent. Perusal of the report submitted by Circle Officer clearly shows that there is no structure of whatsoever nature on plot No. 71. Similarly, panchanama drawn on 23/02/2023 so also conclusively proves that the plot No. 71 is the open land. Hence finding of facts recorded by Collector and confirmed by Additional Commissioner require no interference.

7. In order to seeks disqualification of any member of Grampanchayat, there has to be concrete evidence to indicate that the member of Grampanchayat has committed encroachment on public property or he is taking benefit of such encroachment. No such disqualification can be attached casually, as the same entails removal of a member of Grampanchayat who has been duly elected by democratic process for representing people in the constituency.

8. Since it was the case of the petitioner that the encroachment has been caused, at the first instance the burden was on the petitioner to prove the said fact. As recorded above there is no evidence to indicate so. In view of this, question of causing interference in the impugned order does not arise. Hence, petition stands dismissed.

(R. M. JOSHI, J.)

ssp