



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6195 OF 2024

Gitabai Uddhav Mutkule,
Age: 46 years, Occ. : Household & Member,
R/o: Suldali Tq. Sengaon,
Dist. Hingoli.

...PETITIONER

...VERSUS...

1. The Additional Divisional Commissioner-2,
Chhatrapati Sambhajinagar Division,
Chhatrapati Sambhajinagar.
2. The District Collector,
Hingoli, Dist. Hingoli.
3. Gramsevak,
Grampanchayat Karyalay Suldali (Bk),
Tq. Sengaon, Dist. Hingoli.
4. Rajesh s/o Madhav Mutkule,
Age: 23 years, Occ: Agri,
R/o: Suldali Tq. Sengaon,
Dist. Hingoli.

...RESPONDENTS

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- Mr. Y. K. Bobade, Advocate for the Petitioner
 - Mr. B. B. Bhise, AGP for Respondent Nos. 1 and 2
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CORAM : ROHIT W. JOSHI, J.
DATE : JULY 24, 2025

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith with the consent of parties.

2. The petitioner who is elected member of Suldali Village Panchayat is disqualified under Section 14(1)(j-3) of the Maharashtra Village Panchayat Act, 1958, on a complaint made by respondent no. 4. Undisputedly, husband of the petitioner is owner of house property no. 162, dimensions of which are recorded in the Grampanchayat record as 36 X 23 sq.ft. i.e. 828 sq.ft.

3. During the course of spot panchnama conducted pursuant to the inquiry initiated against the petitioner, the actual possession was found to be 37.11 X 22.07 i.e. 842.39 sq.ft. The panchnama and the orders do not record that the additional area occupied is government land. The additional area allegedly occupied is only 14.39 sq.ft., as against the dimensions of 36 X 23 ft. the spot panchnama indicates dimensions of actual area and possession is 37.11 X 22.7 ft.

4. The case is not one of encroachment but one of a minor difference between area and possession and area recorded in Grampanchayat records and therefore, order of disqualification cannot be passed invoking Section 14(1)(j-3) of the Act. Even this defect is cured by obtaining possession of additional land from the adjoining owner vide agreement dated 26.04.2019, which is accepted by the Grampanchayat and accordingly area of house of the husband of petitioner is recorded as 1115.5 sq.ft.

5. The learned authorities have erred in passing order of disqualification in the peculiar facts of the case. The writ petition is therefore **allowed**. The impugned order dated 24.04.2024 passed by Additional Divisional Commissioner and order dated 17.11.2023 passed by the the Collector, Hingoli are are quashed and set aside.

6. The writ petition is, therefore, disposed of. Pending civil applications, if any, stand disposed of.

[ROHIT W. JOSHI, J.]