



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 WRIT PETITION NO. 9266 OF 2023

Shaikh Gulab Dadamiya

VERSUS

The Additional Divisional Commissioner-2 And Others

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Advocate for Petitioner : Mr. C.V. Bodkhe h/f R.V. Gore

AGP for Respondents : Mr. D.R. Korade

Advocate for Respondent 5 : Mr. S.R. Erande

Advocate for Respondent 6 : Mr. U.U. Wagh

Advocate for Respondent 7 : Mr. A N. Sabnis.

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : August 08, 2025

ORDER :-

1. The petitioner impugns the order dated 13.4.2023 passed by the Additional Divisional Commissioner, Aurangabad in appeal no.CR-113 of 2022, thereby confirming the order dated 26.8.2022 passed by the learned Collector, Aurangabad in dispute CR no.158 of 2021, by which a prayer of the petitioner to declare respondent no.7 as disqualified as Member of Grampanchayat, Pandharpur, Tq. & District Aurangabad, is declined.

2. Learned advocate appearing for petitioner submits that respondent no.7 elected as Sarpanch of village Pandharpur. His

mother is residing in a house, which is part of gat no.175 and the same is a Government land. He, therefore, contends that petitioner has incurred a disqualification in terms of section 14(1)(j-3) of Maharashtra Village Panchayat Act, 1958 (for short said Act). According to learned counsel appearing for petitioner, the Collector as well as Divisional Commissioner ignored voluminous evidence on record depicting aforesaid fact and rejected the dispute filed by petitioner seeking disqualification of respondent no.7. He would invite attention of this Court to the report of B.D.O. wherein, it is stated that petitioner in her statement admitted that his mother is residing in the house constructed in land out of gat no.175 which is a gayran land. Learned counsel further relies upon a list of the encroachers forwarded by village Development Officer, wherein name of petitioner's mother appears at serial no.48. He would further rely upon report of the Tahsildar wherein reference is made that the petitioner's mother Nilofar Pathan owns Grampanchayat House No.240, which is part of gat no.175 i.e. Gayran Land.

3. Per contra, Mr. Sabnis, learned advocate appearing for respondent no.7 would submit that respondent no.7 has purchased Grampanchayat house property bearing no.240

from one Subahanbee Chotumiya under the sale-deed. He would submit that there is nothing on record to depict that said house is part of gat no.175. According to him, lands were allotted by Government in favour of respective persons and they have constructed houses under 'Gharkul Scheme' of the Central Government. Mother of the petitioner is residing in a house, which is purchased from one of the beneficiary of scheme, so petitioner or his family member cannot be attributed disqualification under section 14 (1) (j-3) of the said Act.

4. Having considered the submissions advanced, it can be observed that village Development Officer, Tahsildar as well as the Block Development Officer in their reports clearly states that mother of petitioner is residing in grampanchayat house property no.240, which is part of gat no.175. Question is whether plot from gat no.175 was legally allotted for construction of house in favour of vendor of respondent i.e. Subhanbee Chotumiya under Government Scheme*** or whether Gharkul constructed under the scheme is on the Government land without its regular or legal allotment. Perusal of the impugned order passed by the Collector or Divisional Commissioner do not throw light on aforesaid aspect. It is trite

that, if house has been constructed under Gharkul scheme on the Government land without its legal allocation, that would be definitely treated as encroachment on the Government land. Judgments of the learned Collector or learned Divisional Commissioner are silent on aforesaid aspect. Therefore, it is desirable that there shall be full fledged inquiry on aforesaid aspects so as to determine if respondent no.7 has incurred disqualification.

5. In view of the aforesaid factual aspect, this Court deems it appropriate to quash and set aside the impugned order and relegate matter to learned District Collector, Aurangabad for fresh inquiry on aforesaid aspects and then pass fresh orders in accordance with law.

6. Since the disqualification proceedings are initiated in the year 2022, it would be advisable that learned District Collector decides the matter expeditiously and pass fresh order within a period of eight (8) weeks from today. Writ petition stands **disposed of.**

(S. G. CHAPALGAONKAR)
Judge

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