



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL WRIT PETITION NO. 9069 OF 2022

Mangalabai Sanjay Pawar (Bhil) ...Petitioner

Versus

The Additional Commissioner & Ors ...Respondents

- Mr. R. R. Awhad h/f Mr. N. L. Chaudhari, Advocate for the Petitioner
- Mr. S. G. Sangle, Addl. GP for the Respondents/State
- Mr. M. R. Wagh, Advocate for the Respondent No. 3

CORAM : R. M. JOSHI, J
DATE : SEPTEMBER 22, 2025

PER COURT :

1. The present petition is challenging the order dated 18/04/2022 passed by the District Collector, Dhule in Grampanchayat Dispute No. 45/2021 and the order dated 17/08/2022 passed by Additional Divisional Commissioner, Nashik in Appeal No. 66/2022, which upheld the Collector's decision of disqualification from the post of Sarpanch of village Grampanchayat Dengurne/Sondale, Tq. Shindkheda District. Dhule on 18/04/2022.

2. The brief facts of the petition are as follows:

(i) In the year 2021, the Petitioner was elected as a Grampanchayat Member for the village Dangurne/Sondale, Tq. Shindkheda Dist. Dhule. Respondent No. 3 Ganesh Bapu More had filed application with the District Collector under section 14 (J-3) of the Maharashtra Grampanchayat Act, 1958 (for short '**the Act**') alleging that the husband of petitioner had encroached upon the government land Gut No. 144/1 and constructed house no. 549/2 at village Dengurne/Sondale, Tq. Shindkheda Dist. Dhule. It is further alleged that in violation of Section 14 (J-3) of the Act. Petitioner is permanently ineligible to serve as Sarpanch or Gram Panchayat Member. On this ground, Respondent No. 3 Ganesh Bapu More sought disqualification of petitioner.

(ii) Initially, the District Collector, after hearing both parties, rendered a judgment disqualified the Petitioner from the post of Sarpanch. Aggrieved by this decision, the Petitioner filed an appeal before the learned Additional Commissioner Nashik. The Learned Additional Commissioner in appeal by present petitioner affirmed the order of the District Collector, thereby

confirming the Petitioner's ineligibility to continue holding the post of Sarpanch. Hence, this petition.

3. Learned Counsel for the petitioner submits that the The Forest Department Panchama proves the petitioner's encroachment on the forest land at Gat No. 144/1. The House no. 59/2 is constructed by the husband of petitioner in Indira Aawas Yojana and same is recorded in Namuna No. 8 of Grampanchayat, Dengurne admeasuring 20 X 15 ft. Gat no. 144/1 was given to forest department from mutation entry no. 1371. Petitioner's family is having electricity connection and they are regularly paying the gram panchayat tax. It is his contention that since the house is constructed under Government Scheme and as there is no evidence to hold that the land on which house is constructed is government land, The order impugned can't sustain.

4. Learned counsel for respondent no. 3 submits that, husband of petitioner has encroached on forest land i.e. gut no. 144/1 and has constructed house no. 592/2 at village Dengurne/Sondale Tq. Sindkheda Dist. Dhule. Hence, it is proved that the husband of

petitioner made an encroachment on forest land and a constructed house thereon. Evidence was produced by the Respondent including the list of encroachers for Gat No. 144/1 where the petitioner's husband's name is recorded. A notice was subsequently issued by the Forest Department to the husband of petitioner on 05/9/2003 directing the removal of the said encroachment.

5. It would be relevant to take note of the provision of Section 14 (1) (j-3) of the Act, which reads as under: -

"14. Disqualification

(1) No person shall be a member of a Panchayat Continue as such who-

(j-3) has encroached upon the Government land or public property;"

6. It is further held in case of **Sheela Dilip Daberao V/s State of Maharashtra, 2015 (5) All.M.R. 235**, the Hon'ble Court has observed in para 4 as under :

"Clause (j-3) of Section 14(1) of the said Act, which is reproduced above, covers the cases where a member of a Panchayat resides in a portion encroached upon the Government land or public property. It will not be necessary in such a situation to establish

that such member is the owner of the property adjacent to the encroached portion. The question as to whether any other member of the family has made an encroachment, loses its significance. In the facts and circumstances of this case, it was not necessary for the respondents to establish that it is the petitioner herself has encroached upon the Government land."

7. Thus, if member of Grampanchayat encroaches upon Government Public property the rigors of this provision would apply to such individual. It would therefore be necessary ascertain herein, whether the petition has encroached upon government property. Herein this case, petitioners have not disputed the fact of having house on Gat No. 144/1. He however claims that the house being constructed under Indira Awas Yojana and therefore could not be termed as encroachment. There is no evidence on record to show that the piece of land on which house has been constructed was allotted to the petitioner under any scheme. The reference of Indira Awas Yojana, would be irrelevant to decide the issue of encroachment, for the reason that, this scheme only provides for finance for construction of house. Any such financial assistance to the petitioner or family could not lead to conclusion that the construction on

the land of forest department is legal. Even accepting that the fianance to construction of house is to be done on fulfillment of certain condition but that it self would not make construction in question legal. An inspection conducted by the Forest Department on 30/8/2003 revealed an encroachment on the forest land within Gat No. 144. Consequently, the Forest Department issued notices to the encroacher of Gat No. 144, directing them to remove the encroachment, and the husband of the petitioner accordingly issued notice dated 30/9/2003. In the circumstances, with these admitted facts there remained no question of proving the acts of encroachment the petitioner to be proved by any other evidence.

8. The existence of an encroachment on Government Forest land Gut No. 144/1 by the structure occupied by the petitioner House No. 549/2 was definitively established and proven through documentary evidence, including the official Panchanama prepared by the Forest Department. The disqualification provision under Section 14(1)(j-3) of the Maharashtra Grampanchayat Act, 1958, as interpreted by this Court in **Sheela Dilip**

Daberao (supra), applies to any Panchayat member who resides in a property that has encroached upon government land. Since the petitioner admittedly resides in and occupies the confirmed illegal structure, she has personally incurred the disqualification. Consequently, the fact that the initial construction was carried out by her husband is immaterial, as her continued residence in and use of the encroached property render the provision fully applicable to her.

9. Having regard to the facts on record this court has no hesitation hold that order of disqualification of Petition is perfectly legal and no interference in the orders impugned is call for. Consequently, petition stands dismissed.

(R. M. JOSHI, J.)