

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

46 WRIT PETITION NO. 11056 OF 2023

Sapna Gulab Patil

VERSUS

The State Of Maharashtra Through Addl Commissioner And
Others

...

Advocate for Petitioner : Mr. D.S. Patil h/f M.S. Deshmukh

AGP for Respondents : Mr. S P Joshi

Advocate for Respondent 3 : Mr. S R Dheple

...

CORAM : S. G. CHAPALGAONKAR, J.

Dated : June 30, 2025

PER COURT :-

1. Petitioner impugns the order of disqualification passed by the learned District Collector, Jalgaon in Grampanchayat Dispute No.37 of 2021 thereby disqualifying him from the post of Member of Grampanchayat, Borkheda (Bk), Tq, Chalisgaon, District Jalgaon, so also the order dated 25.8.2023 passed by the learned Additional Commissioner, Nashik Division, Nashik in Appeal No.27 of 2023, upholding the order passed by the Collector.

2. Learned advocate appearing for petitioner submits that petitioner was elected as Member of Grampanchayat, Borkheda. Lateron, she was elected as Sarpanch. On complaint

given by the respondent no.4 a proceeding was initiated before respondent no.2 for disqualification of petitioner under section 14 (1)(j-3) of the Maharashtra Village Panchayats Act on the ground that father-in-law of petitioner encroached upon Government land i.e. property no.848 admeasuring 464 sq. fts. Petitioner appeared before the Collector and submitted her defence that occupation/possession of father-in law on Government land was regularized as per policy of Government by Competent Committee headed by the S.D.O. Chalisgaon. Process for regularization was initiated in the year 2018 and, therefore, the petitioner cannot be disqualified under section 14(1)(j-3) of the Act.

3. The Collector as well as Divisional Commissioner declined to entertain the defence put forth by the petitioner and recorded finding that petitioner has incurred disqualification.

4. Learned advocate appearing for petitioner vehemently submits that allegations made against father-in-law of petitioner that he has encroached upon Government land. Petitioner has been elected in the year 2021. Prior to election of the petitioner, proposal for regularization of possession of

petitioner's father-in-law was routed in the year 2018. Therefore, no disqualification shall be attached to the petitioner. Learned counsel appearing for petitioner further points out that father-in-law of petitioner has deposited requisite amount towards regularization in terms of order passed by the competent authority. However, this aspect is ignored by the Courts below.

5. Perusal of the impugned order shows that petitioner has not disputed that her father-in-law was in possession of the Grampanchayat property no.848 admeasuring 29x16 feet i.e. 464 sq. feet as encroacher and raised construction over the same. Only defence canvassed into service is that, such encroachment has been regularized by order of the Competent Authority. Learned District Collector observed in impugned order that Secretary of the village Panchayat Borkhed had published list dated 30.3.2021 for regularization of the encroachments; which indicates that process for regularization was initiated after election of the petitioner. It is, therefore, apparent that, as on the date of election of the petitioner, her father-in-law was encroacher on Government property.

6. Learned Divisional Commissioner while dealing with the Grampanchayat appeal no.48 of 2022 observed that father-in-law of petitioner was encroacher since 2011. As per Government Resolution dated 10.8.2018 Government took policy for regularization of certain specified encroachments and Committee was appointed for identification of eligible encroachments. On or about 28.10.2021 Committee declared names of eligible persons whose encroachments can be regularized and passed final order on 31.3.2023. Aforesaid sequence of events would show that on date of election of the petitioner i.e. 15.1.2021 her father-in-law was encroacher on the Government land. Therefore, in light of the law laid down by the Supreme Court of India in case of **Janabai Vs. Additional Commissioner and others** reported in (2018) 18 SCC 196, there cannot be any doubt that petitioner incurred disqualification in terms of Section 14(1)(j-3) of the Maharashtra Village Panchayats Act.

7. No fault can be found in the impugned order. In the result, writ petition stands **dismissed**.

(S. G. CHAPALGAONKAR)
Judge.