



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

103 WRIT PETITION NO. 12653 OF 2025

SAMBHAJI BHAGINATH LONDHE

VERSUS

THE ADDITIONAL DIVISIONAL COMMISSIONER AND OTHERS

...

Advocate for the Petitioner : Mr. Harshal Prakash Randhir

AGP for Respondent/State: Mr. P. D. Patil

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 13.10.2025

PER COURT:

1. Heard.

2. The learned counsel for the petitioner submits that the petitioner is the complainant. He filed the complaint against the elected member of the grampanchayat i.e. respondent no.4 that he has encroached upon the government property and, as such, should be disqualified within the provisions of Section 14(J-3) of the Maharashtra Village Panchayats Act. On the complaint being filed before the District Collector, notice was issued to respondent no.4 and the report of the Sub-Divisional Officer was also called and considering the report, the Collector dismissed the complaint.

Thereafter, the petitioner filed an appeal before the appellate authority i.e. the Additional Divisional Commissioner, Nashik. The same is under Section 16(2) of the Maharashtra

Village Panchayat Act. The same is also dismissed and, accordingly, the present writ petition is filed.

3. The learned counsel for the petitioner submits that the notice of encroachment was given by the authorities to the father of the respondent no.4 and that the respondent no.4 and his family are a joint family holding agricultural property on which some construction is done illegally.

4. The learned counsel submits that thereafter when the notice was issued, the same was recalled by the concerned authority considering the response that there is no construction thereon. It is stated that later another notice was issued on 03.11.2023. It is stated that the said notice is also re-called.

5. The learned counsel for the petitioner submits that from the notice it can be said that respondent no.4's family has encroached upon the government land.

6. Both the authorities below, however, on considering the material has found that there is no encroachment at the instance of respondent no.4. The finding recorded by the appellate authority in the order dated 02.07.2025, page 64 of the petition, clauses 4 to 6 are relevant and noted below:

“4. सामनेवाले नं. 3 अनिल रघुनाथ घुले व त्यांचे वडिल रघुनाथ विश्वनाथ घुले हे एकत्रित कुटुंबात असून त्यांचे कुटुंबाने राष्ट्रीय महामार्ग ५२ च्या हद्दीतील कि.मी. ४०/२०० मध्ये रस्त्याच्या डाव्या बाजूस रस्त्याच्या मध्यापासून ०८०० मी. अंतरावर पक्क्या स्वरूपाचे अतिक्रमण केलेले आहे. त्याबाबत सार्वजनिक बांधकाम उपविभागीय शेवगाव यांनी दि. ०१/१२/२०२० रोजी क्र. ७४३/२०२० अन्वये शासकीय जागेतील अतिक्रमण दूर करण्याकरिता सामनेवाले नं. ३ यांचे वडिलांना नोटीस बजावली होती. तथापि दि. २८/१२/२०२० रोजी सहाय्यक अभियंता सार्वजनिक बांधकाम विभाग, शेवगाव यांनी सामनेवाले नं.२ यांचे वडील श्री. रघुनाथ विश्वनाथ घुले यांचे बरोबर पत्र व्यवहार करून सदर नोटीस जुजबी चौकशीवरून देण्यात आलेली असल्याने रद्द समजण्यात यावी अशा आशयाचे पत्र दिले आहे.

5. अपीलार्थी यांनी सामनेवाले नं.३ यांनी अथवा त्यांचे कुटुंबियांनी अतिक्रमण केले असलेचे शावीत करण्यासाठी अतिक्रमित मिळकतीचा ग्रामपंचायत उतारा, अतिक्रमण रजिष्टरचा उतारा, तलाठी यांचेकडील १-ई चा नमुना रजिष्टर उतारा असे कोणतेही पुरावे सादर केलेले नाही.

6. अपीलार्थी यांनी सामनेवाले नं.३ अनिल रघुनाथ घुले अथवा त्यांचे कुटुंबियांनी ग्रामपंचायतीचे / शासकीय जागेवर अतिक्रमण केले असल्याचे व अतिक्रमण जागेचा उपभोग घेत असले बाबत निर्विवादपणे सिध्द करू शकले नाहीत.

उपरोक्त विवेचन पाहता जिल्हाधिकारी अहिल्यानगर यांचे कडील आदेश दि. 30/08/2024 अन्वये महाराष्ट्र ग्रामपंचायत अधिनियम 1959 चे कलम 14 (1) (ज-3) नुसार पारित केलेल्या आदेशात हस्तक्षेप करण्याची आवश्यकता नाही. या निष्कर्षाप्रत मी आलेलो आहे.

सबब मी अजय मोरे, अपर विभागीय आयुक्त, नाशिक विभाग नाशिक खालीलप्रमाणे आदेश देत आहे.”

7. The appellate authority has noticed that the notice of encroachment is re-called by the PWD department and there is no proof that any encroachment is done as there was no document produced in terms of Namuna 1E indicating encroachment.

8. Although, the petitioner has contended that respondent no.4 has encroached on the government land, however, there is no material found by the concerned authority, more so, when spot

inspection conducted no encroachment was found and the report of the Sub-Divisional Officer also indicated no encroachment.

9. Considering the same and that the finding of the fact recorded that there is no encroachment, this court cannot re-examine the same in exercise of writ jurisdiction. No case is made out.

10. The Writ Petition stands dismissed.

[ARUN R. PEDNEKER, J.]

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