

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

942 WRIT PETITION NO. 11044 OF 2022

RATANBAI W/O DATTARAO GADADE AD ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

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Advocate for the Petitioners : Mr. Gangakhedkar Shailendra S.
AGP for Respondent Nos. 1 to 4/State : Mr.R.B.Dhaware
Advocate for Respondent No. 5 : Mr. Kabade Vivek V.
Advocate for Respondent No. 6 : Mr. Jadhav Kiran D.
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CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 05.12.2025

PER COURT :

1. Heard Mr. Gangakhedkar, the learned Counsel for the Petitioners, Mr.Dhaware, the learned AGP for Respondent Nos. 1 to 4/State, Mr. Kabade, learned Counsel for Respondent No. 5 and Mr. Jadhav, the learned Counsel for respondent No. 6.
2. By way of present petition, the petitioners are challenging the order dated 18.10.2022 passed by the Additional Divisional Commissioner, Aurangabad in Case No. 2022/Grampanchyat/Appeal-2/CR-73, whereby, the appeal filed by the petitioners came to be dismissed and the order dated 29.06.2022 passed by the Collector Hingoli disqualifying the petitioners was confirmed.
3. Mr. Gangakhedkar, learned Counsel for the petitioners points out that the panchanama dated 26.04.2021 was carried out by

the Extension Officer, Panchyat Samiti, Sengaon and no specific encroachment was noticed on the Government land. He further submits that Extension Officer has no expertise in the field of measurement and this fact was not considered by the Collector, Hingoli while disqualifying the petitioners.

4. The learned AGP supports the order passed by the District Collector, Hingoli and Additional Commissioner, Aurangabad and submits that the Extension Officer has recorded finding in the panchanama that encroachment has been committed on the Government land by the petitioners.

5. I have gone through the said panchanama. Extension Officer has to give specific finding regarding existence of the encroachment on the Government land, but I do not find such finding in the report of Extension Officer.

6. The Extension officer has no expertise in the field of measurement, therefore, the Collector ought to have called the report either of TILR or any Officer from the office of the Land Record.

7. Disqualification of the elected representatives is a penal provision and therefore, authorities are required to strictly prove the fact of encroachment. The petitioners are people representatives elected through a democratic procedure, therefore, authorities must follow the procedure of disqualification in a strict manner. The authorities ought not to have relied on the report of Extension Officer who lacks expertise in the field of measurement. Therefore, I am inclined to set aside the

orders passed by the authorities and remand the matter to the District Collector, Hingoli, to decide it afresh.

8. In view thereof, the Writ Petition is partly allowed. The order passed by the District Collector dated 29.06.2022 and the Additional Commissioner dated 18.10.2022 are quashed and set aside.

9. The matter is remanded to District Collector, Hingoli to decide it afresh.

10. The District Collector, Hingoli shall call the report from the TILR and pass an order in accordance with the law.

(SIDDHESHWAR S. THOMBRE, J.)

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