



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

65 WRIT PETITION NO. 13626 OF 2023

RAJU BABURAO BARI

VERSUS

**THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

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Advocate for the Petitioner : Mr. Anand Patil h/f. Mr. Vinod
Patil

AGP for Respondents-State : Mr. P. P. Dawalkar

Advocate for Respondent No.4 : Mr. V. B. Patil

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CORAM : KISHORE C. SANT, J.

Dated : February 07, 2025

PER COURT :-

1. Heard the learned Advocate for the parties.
2. This writ petition is filed challenging a judgment and order passed by the learned Additional Commissioner, Nashik Region, Nashik in Grampanchayat Appeal No. 162 of 2023, which came to be rejected. The petitioner had filed a dispute before the learned District Collector, Jalgaon, seeking disqualification of respondent No.4 who became member of the Grampanchayat and consequently who came to be elected as Sarpanch of the village Shirsoli, (Pra.Bo) Tq. and Dist. Jalgaon.

3. It is the case of the petitioner that the respondent No.4 has incurred disqualification under Section 14(1)(J)(3) read with Section 16 of the Village Panchayat Act. Respondent No.4 is found to have committed an encroachment on the Government land. The mother of respondent No.4 is staying in House No. 160. There is an encroachment of near about area admeasuring 70 to 80 square feet on the Government land.

4. Pursuant to the filing of the dispute, the learned District Collector directed the Chief Executive Officer, Jilha Parishad, Jalgaon to submit a report about encroachment. The Chief Executive Officer submitted a report that the mother of respondent No.4 is found to have encroached upon government land to the extent of 70 to 80 square feet and therefore respondent No.4 has incurred disqualification.

5. It is the case of respondent No.4 before the District Collector that he is residing separately from his mother since 2010. Respondent No.4 has already executed a registered deed of relinquishment on 29.06.2012 in

favour of his mother, brother and two sisters and since then he is residing separately and even, he had produced lease agreement entered into between himself and one Chotu Sukdev Patil dated 20.07.2010 for a period of 9 years. Since then, he is residing separately. He also produced on record copy of separate and independent ration card which is only consisting of his wife and two children. The copy of ration card is signed by the Tahsildar, Jalgaon, on 17.07.2021, whereas the Election took place in the year 2022.

6. The learned District Collector considered all these aspects and rejected the dispute of the petitioner. Being aggrieved by the said judgment, the petitioner approached The Divisional Commissioner, Nashik. Thus, the petitioner is before this Court.

7. The learned Advocate for the petitioner has vehemently argued that there is clear report submitted by the Chief Executive Officer to the learned District Collector stating that the mother of respondent No.4 has committed an encroachment on the Government land. He has clearly given the demarcation of the area of the property and of the

encroachment area. It is clear that respondent No.4 has incurred disqualification. Still, the learned District Collector failed to appreciate the said report and erroneously rejected the dispute. Even the learned Additional Collector failed to consider all these aspects and has dismissed the appeal. He thus submits that both the judgments and orders passed by the learned Additional Commissioner, Nashik deserves to be quashed and set aside by holding the petitioner to be disqualified to become member of the Grampanchayat as provided under Section 14(1)(j-3) read with Section 16 of the Village Panchayat Act.

8. Learned Advocate Mr. Patil for respondent No.4 supports the order passed by the learned Authority. He submits that the respondent No.4 has produced on record, the lease agreement, relinquishment deed and also copy of ration card. All these things clearly go to show that neither the respondent has title over the property wherein encroachment is alleged nor he is member of the family staying in the said house. Since 2010 he is staying separately from his mother. He has relinquished a deed in

favour of the mother, brother and two sisters. This clearly shows that he has no concern with the said property. The ration card is also prior to the Election. All these documents are much prior to the Election.

9. Considering the above submissions and the annexures, this Court finds substance in the statements made by the learned Advocate for respondent No.4. Respondent No.4 has executed relinquishment deed on 29.06.2012 i.e. ten years prior to the Election, the lease agreement is also of 20.07.2010 i.e. 12 years prior to the Election, copy of ration card was signed on 14.07.2021. It is difficult to draw an inference that only to contest the Election, respondent No.4 has created these documents. Considering overall case, this Court finds that no case is made to entertain the writ petition.

11. The writ petition therefore stands dismissed. No order as to costs.

(KISHORE C. SANT, J.)