



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

WRIT PETITION NO. 14128 OF 2023

SHYAM NARAYAN GAWALI
VERSUS
THE COLLECTOR JALGAON AND OTHERS

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Mrs. Rani Bharuka-Bora h/f Mr. S. S. Bora, Advocate for the
Petitioner.

Mr. K. S. Patil, AGP for Respondents-State.

Mr. P. P. Jadhav, Advocate for Respondent No.2.

Mr. B. S. Shinde, Advocate for Respondent No.3.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 23rd JULY, 2025.**

P.C.:-

1. Heard learned Advocates appearing for respective parties.
2. The petitioner is disqualified from the post of Member of Village Panchayat on the ground that he has caused encroachment on Government land from Gut No.30/1A and raised construction. The learned Collector passed order of disqualification under Section 14(J-3) of Maharashtra Village Panchayat Act, 1959 on the basis of report submitted by Village Development Officer stating that such encroachment exist on Government land.
3. Perusal of panchanama shows that there is nothing to identify nature of construction and area of encroachment. Except report of Village Development Officer and unspecific panchanama, no other material was placed before learned Collector.

4. The learned Advocate appearing for petitioner has pointed out that petitioner owns his property having non-agriculture permission and he is residing on construction raised on his own property. However, order of learned District Collector or Commissioner nowhere shows that any authentic record confirming encroachment made by petitioner was placed before them. The evidence in the form of report of Village Development Officer or panchanama itself would not be sufficient to draw conclusion as to encroachment, particularly it is not supported by technical measurement and expert's report indicating area of encroachment and nature thereof.

5. As observed by Supreme Court of India in case of ***Ravi Yashwant Bhoir Vs. District Collector, Raigad and Ors.***¹, elected member can be removed in an exceptional circumstances giving strict adherence to the statutory provision. He can be removed only on proved misconduct or facts consisting ingredients to attract disqualification. The proof in such case must be impeccable and not merely probable.

6. In present case, material on record can hardly make probability of encroachment, but such vague and unfounded report by Village Development Officer can never form basis to disqualify

¹ AIR 2012 SC 1339.

elected representative under Section 14(1)(J-3) of Maharashtra Village Panchayat Act.

7. In that view of the matter, impugned order cannot be sustained in law and liable to be quashed and set aside. In result, Writ Petition is allowed in terms of prayer Clause (B).

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/July-2025