



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14187 OF 2024

Monali Yogesh Patil
Age: 29 years, Occu: Sarpanch
of Grampanchayat Ubhand,
R/o Ubhand Tq-Sakri,
District-Dhule

.....PETITIONER

VERSUS

1. The Collector, Dhule,
Tq. & District- Dhule
2. The Divisional Commissioner,
Nashik.
3. The Grampanchayat Ubhand
Tq.-Sakri, District-Dhule,
Through the Gramsevak
4. Ashok Bhaga Patil,
Age-Major, Occ-Agriculturist
R/o-Ubhand, Tq.-Sakri, District-Dhule.

.....RESPONDENTS

Mr. M. S. Shah, Advocate for petitioner
Mr. S. B. Yawalkar h/f Mr. C. B. Choudhari, Advocate for
respondent no.4
Mr. B. B. Bhise, AGP for respondent-State

CORAM : ROHIT W. JOSHI, J.
RESERVED ON : 21ST AUGUST, 2025
PRONOUNCED ON : 03.09.2025

JUDGMENT :-

. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.

2. The present petition takes exception to order dated 21.03.2024, passed by the respondent no.1, holding that the petitioner has incurred disqualification under Section 14(1)(J-3) of the Maharashtra Village Panchayats Act, 1959 as also the order dated 16.12.2024, passed by the respondent no.2, dismissing appeal preferred by her challenging the said order of disqualification. The petitioner was elected as Sarpanch of Gram Panchayat Ubhand, Tahsil Sakri, District Dhule.

3. The respondent no.3 filed an application before the respondent no.1/Collector, contending that the husband of the petitioner has committed encroachment on a land of the said Gram Panchayat. As a consequence of which, the petitioner had incurred disqualification under Section 14(1)(J-3) of the Act.

4. The petitioner appeared in the said proceeding and filed a reply stating that land bearing property no.514 was

purchased by her husband from one Jagan Dhudku Malche, vide agreement dated 03.03.2020. The petitioner further contended that the said agreement was revoked by subsequent document executed between the said vendor and husband of the petitioner on 02.07.2021. The petitioner contends that her husband had filed application for cancellation of the entry, recorded in his name in Gram Panchayat records on the basis of the earlier agreement dated 03.03.2020. The petitioner therefore contended that the application was likely to be rejected.

5. The Collector has allowed the application as stated above vide order dated 21.03.2024. The Collector has observed that although, it is contended that the husband had filed application for deletion of his name, the evidence on record did not indicate that the name was so deleted. It is observed that the petitioner did not take any steps for deletion of the name of her husband from the record of Gram Panchayat. The Collector has observed that the husband of the petitioner had acquired land belonging to the Gram Panchayat and did not take steps for deletion of his name. It is also

recorded that the husband of the petitioner was aware about the fact that the land was property of the Gram Panchayat.

6. As stated above, the said order was challenged by the petitioner by filing appeal, which has been dismissed by the Additional Divisional Commissioner, vide order dated 16.12.2024. The Appellate Authority has also observed that the husband of the petitioner acquired the said land belonging to the Gram Panchayat under an unregistered document and thereafter cancelled the same by another unregistered document. It is stated that although, application for deletion of name is stated to have been made, the name of petitioner's husband continues to appear in the record of Gram Panchayat as an encroacher and further that the petitioner did not take any efforts or steps for deletion of the name of her husband from record of Gram Panchayat. In view of the aforesaid, the appeal came to be dismissed.

7. Mr. M. S. Shah, the learned Advocate for the petitioner contends that the document of cancellation of agreement dated 02.07.2021 is not disbelieved by both the authorities. He further contends that merely because the name of

petitioner's husband was not deleted from the relevant record of Gram Panchayat, will not mean that the property continued to be under encroachment of the petitioner's husband. He points out that the cancellation document was executed much before the date of commencement of election program. He also draws attention to letter dated 16.01.2024, issued by the Block Development Officer to the Nayab Tahsildar, wherein it is stated that although in the Gram Panchayat record maintained in form 8, name of the husband of the petitioner is recorded as encroacher over the land bearing property no.514, on physical verification, no encroachment was found on the said land. The said report is furnished on the basis of letter dated 16.01.2024, issued by the Secretary of the Gram Panchayat. The learned Advocate contends that the authorities have not taken into consideration the said report by the Secretary of Gram Panchayat and Block Development Officer. The learned Advocate sums up the contention by stating that merely because the name of husband of the petitioner appears in the record, it cannot be said that he has committed encroachment over the property of the Gram Panchayat.

8. Per contra, the learned Advocate for the respondent no.3 and learned AGP opposed the petition, contending that the document of cancellation of agreement is a sham document, which is not intended to be acted upon. It is their contention that having realized the encroachment over property of the Gram Panchayat would result in disqualification, the petitioner and her husband executed the said document alongwith the vendor with clear intention that the property was continued to be in possession of the husband of the petitioner despite execution of the cancellation agreement. They contend that it is for this reason that the petitioner did not take any steps for deletion of the name of her husband from the record of Gram Panchayat. They further contend that, since both authorities have arrived at a conclusion, based on consideration of material on record, this Court in exercise of its jurisdiction, either under Article 226 and/or 227 of the Constitution of India should not interfere with such finding.

9. At the outset, it must be stated that the petitioner is not claiming ownership over the property in question. The case of

the petitioner is that her husband had entered into agreement with respect to the property in question vide agreement dated 03.03.2020 and the said agreement was subsequently revoked on 02.07.2021. The document of cancellation of agreement is not disbelieved by both the authorities. It is not held that the said document was not executed or that it is a false document. The report by the Block Development Officer indicates that there was no encroachment on the property in question. This report is furnished on 16.01.2024. The report is not considered by the authorities. Both the authorities have recorded finding with respect to encroachment only on the basis of the entry in form no.8 of Gram Panchayat record. The authorities have observed that the petitioner did not take any effective steps for deletion of the name of her husband although, she was holding the office of Sarpanch of the Gram Panchayat. The orders do not record any finding with respect of nature of encroachment i.e. whether any construction is made or compound wall is constructed or the property is fenced. Both orders are silent as regards the manner in which the husband of petitioner is occupying the property.

10. In this regard, it must be stated that the impugned orders have the effect of removing a democratically elected person from the office. It is well settled that strict evidence is needed in order to remove a democratically elected person from his office. Orders of disqualification cannot be passed on the basis of mere inferences. The allegations must be established by strict evidence. In the present case, the authorities have passed the order of disqualification merely on the basis of entry in Gram Panchayat record. Both authorities have not taken into consideration report by the Block Development Officer, which states that there is no encroachment. Likewise, both authorities have not disbelieved the document of cancellation of agreement. Admittedly, the husband of the petitioner occupied the property on the basis of agreement dated 03.03.2020 which is revoked vide subsequent agreement dated 02.07.2021. Revocation of the subsequent agreement is not disbelieved. Thus, the fact of encroachment is not strictly proved.

11. Having regard to the drastic consequences, in the considered opinion of this Court, the impugned orders cannot

be sustained for the reasons recorded above. In view of the above, Writ Petition deserves to be allowed in the following terms:

a) Order dated 21.03.2024, passed by the Collector Dhule in Application No.35 of 2023 and order dated 16.12.2024, passed by the Divisional Commissioner, Nashik in Appeal No.39 of 2024 are quashed and set aside.

12. However, with a view to rule out any possibility of mischief, the petitioner is directed to take immediate measures for deletion of the name of her husband from the record of Gram Panchayat and ensure that the exercise of deletion completed on or before 30.09.2025.

13. Rule stands made absolute accordingly.

(ROHIT W. JOSHI, J.)