



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

WRIT PETITION NO. 6235 OF 2024

Kalavati Jagan Mutkule

VERSUS

The Additional Divisional Commissioner 2 And Others

Mr. Y. K. Bobade, Advocate for petitioner

Mr. S. B. Jadhav, AGP for Respondent Nos. 1 and 2/State

CORAM : R. M. JOSHI, J.

DATE : 07th May, 2025

PER COURT :-

1. None appears for contesting respondents in spite of service of notice. This indicates that they have no inclination to oppose the petition.
2. Learned counsel for petitioner submits that the complaint made by contesting respondents against petitioner is vague. By referring to the said complaint, it is argued that no particulars are provided as to the alleged encroachment caused by the petitioner. It is his submission that by referring to the joint inspection report that even from the said report, it cannot be said that the petitioner is residing in the premise situated on Government land. Reference is made to the order passed by Collector, Hingoli wherein no such findings are recorded. According to him, Collector has committed error in disqualifying the petitioner solely on the ground that there seems encroachment

caused by father-in-law and brother-in-law of the petitioner. In this regard he refers the judgment of Hon'ble Supreme Court in case of **Janabai vs. Additional Commissioner and others (2018) 18 Supreme Court Cases 196** to contend that the disqualification would attract only if the petitioner is residing in the premise allegedly situated on the Government land. In absence of any such evidence, according to him, no disqualification can be attached to the petitioner.

3. Prima facie, perusal of the record placed before this Court indicates that there is substance in the contention of learned counsel for petitioner about there being no evidence to indicate that the petitioner is residing in the premise which is constructed on any Government land. Similarly, order passed by Collector does not indicate so. Considering the judgment of Hon'ble Supreme Court in case of Janabai (cited supra) unless it was shown that the petitioner has carried out encroachment or he is at least residing on the encroached land or derived any benefit there from, question of disqualifying the petitioner does not arise.

4. Hence, there shall be stay to the impugned order till disposal of the petition.

5. Since, none has appeared for contesting respondents, issue notice to contesting respondent for final hearing of this petition at the stage of admission returnable on 25.07.2025.

(R. M. JOSHI, J.)

bsj