

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.8732 OF 2025**

Shri. Sudhir Vilas Awate

Age: 33 years, Occ: Agriculturist,

R/o. At Deolali, Taluka : Karmala,

District:- Solapur.

..Petitioner

Versus

1. The State of Maharashtra
Through rural Department
Maharashtra State, Mantralaya, Mumbai.

2. The Collector, Solapur.

3. The Additional Divisional Commissioner,
Pune Division Pune.

4. Block Development Officer,
Panchayat Samiti, Karmala,
District: Solapur.

5. Gram Sevak/Gramvikas Adhikari,
Grampanchayat Devlali,
Taluka: Karmala, District: Solapur.

6. Ashish Kalyan Gaikwad,
Age: 32 years, Occ: Agriculturist,
R/o. At Deolali, Taluka: Karmala,
District: Solapur.

..Respondents

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Mr. Suhas S. Inamdar, Advocate for Petitioner.

Mrs. S. N. Deshmukh, AGP for Respondents-State.

Mr. Rutwik S. Gadge a/w Mr. Ajinkya A. Gaikwad, Advocate for
Respondent No.6.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 24th SEPTEMBER, 2025.

PRONOUNCED ON : 15th OCTOBER, 2025.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties, matter is taken up for final hearing at admission stage.
2. The present Writ Petition takes exception to order dated 06.03.2025 passed by Additional Divisional Commissioner, Pune Division, thereby reversing order passed by District Collector, Solapur dated 10.12.2024, disqualifying respondent no.6 as member of Village Panchayat, Deolali, Taluka Karmala, District Solapur.
3. The respondent no.6 is elected as member of Grampanchayat, Deolali. The petitioner filed Dispute No.135/2021 before District Collector, Solapur alleging that respondent no.6's family owns fair price shop, which has been unauthorizedly run in Government property. As such, respondent no.6 incurred disqualification under Sections 14(1)(J-3) and 53 of Maharashtra Village Panchayat Act (for short 'MVP Act').
4. In pursuance to aforesaid dispute, District Collector had called report from Block Development Officer of Panchayat Samiti, Karmala, wherein it is reported that on 27.09.2022 board of fair price shop run by Smt. Meera Kalyan Gaikwad i.e. mother of respondent no.6 was noticed in a building of Health Center. However, on 02.11.2022, board was removed and premises was kept in locked condition. Similarly, on 27.12.2023, Block Development Officer reported similar position. The District Collector, after considering aforesaid report concluded that

respondent no.6's mother is in unauthorized occupation of Government property and as such, declared him disqualified under Section 14(1)(J-3) of MVP Act.

5. The respondent no.6 filed Appeal before Additional Divisional Commissioner, Pune, who allowed Appeal and quashed and set aside order dated 10.12.2024 passed by District Collector, Solapur in Dispute Application No.135/2021.

6. Mr. Suhas Inamdar, learned Advocate appearing for petitioner submits that petitioner's father was holding licence for fair price shop. Later on, it was transferred in name of respondent no.6's mother Meera Gaikwad. She is running fair prices shop in Grampanchayat property. As such, respondent no.6 has incurred disqualification. He would invite attention of this Court to Appeal Memo filed by petitioner before Additional Divisional Commissioner and submit that use of Grampanchayat property for fair price shop is admitted by respondent no.6. He would submit that once it is brought on record that Government property was unauthorizedly encroached and used by member of Village Panchayat or his family member, disqualification under Section 14(1)(J-3) of MVP Act would attract.

7. Mr. Rutwik Gadge, learned Advocate appearing for respondent no.6 submits that there is no concrete evidence that respondent no.6's mother has encroached upon Government property.

8. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that petitioner's contentions that mother of respondent no.6 run fair price shop in Government property is based on communication dated 27.09.2022 issued by Village Development Officer, wherein he states that board of fair price shop run by respondent no.6's mother has been seen on Government building. The said communication is based on hearsay information. Second document relied upon by petitioner is report of Block Development Officer, wherein he states that on 27.09.2022, he noticed board of fair price shop on outer wall of Government building, however, on 02.11.2022 such board was removed.

9. Although Mr. Inamdar, learned Advocate appearing for petitioner tries to impress upon this Court that in Appeal Memo filed before District Collector respondent no.6 has admitted use of Government premises for fair price shop, plain reading of contents of Clause 2(c) to 2(e) in Appeal Memo depicts that temporary arrangement for storage of food grain was made at Grampanchayat premises with consent of Grampanchayat members, but distribution of goods was continued from House No.27 owned by mother of respondent no.6.

10. Assuming that temporary storage of food grain was made by respondent no.6's mother in building of Grampanchayat, it is difficult to hold that respondent no.6 can be disqualified under Section 14(1)(J-3) of MVP Act. There is nothing on record to show that respondent

no.6 is directly or indirectly having concerned with business of his mother. Secondly, it is not a case of permanent or continuous encroachment or unauthorized use at the hands of respondent no.6. The Additional Divisional Commissioner upon consideration of aforesaid aspects concluded that respondent no.6 cannot be disqualified for aforesaid reasons. The view taken by Additional Divisional Commissioner is possible and probable.

11. In that view of matter, this Court do not find any reason to exercise Writ jurisdiction under Article 227 of Constitution of India and interfere in impugned order passed by Additional Divisional Commissioner.

12. In result, Writ Petition stands dismissed.

13. Rule stands discharged.

(S. G. CHAPALGAONKAR)
JUDGE