

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
REVIEW PETITION NO.138 OF 2024
IN
WRIT PETITION NO.2019 OF 2024**

Shri. Yogesh Sarjerao Patil,
Age: 35 Years, Occu.: Agriculturist,
R/o. Shiya, Tal. Karveer,
Dist. Kolhapur.

..Review Petitioner

Versus

1. Shri. Dattatray Sarjerao Shinde,
Age: 40 Years, Occu.: Agriculturist,
R/o. Shiye, Tal. Karveer,
Dist.: Kolhapur.
2. Additional Commissioner,
Pune Division, Pune.
3. Collector, Kolhapur.
4. Gramsevak, Officer
Grampanchayat, Shiye,
Tal. Karveer, Dist. Kolhapur.

..Respondents

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Mr. Dheeraj Patil a/w Mr. Rajvardhan Chougule i/by Mr. Drupad Patil,
Advocate for Petitioner.

Mr. Sandeep Koregave a/w Ms. Pallavi A. Karanjkar, Advocate for
Respondent No.1.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 20th SEPTEMBER, 2025.

PRONOUNCED ON : 23rd SEPTEMBER, 2025.

FINAL ORDER:-

1. The petitioner seeks review of order dated 25.07.2024 passed by this Court in Writ Petition No.2019/2024, whereby Writ Petition filed by respondent no.1 is allowed and order of disqualification passed against him under Section 14(1)(j-3) of Maharashtra Village Panchayat

Act, 1958 (for the same of brevity hereinafter referred as 'MVP Act') has been quashed and set aside.

2. The respondent no.1 was elected as Member of Village Panchayat, Shiye, Taluka Karveer, District Kolhapur. The petitioner raised dispute before learned District Collector attributing disqualification against respondent no.1 in terms of Section 14(1)(j-3) of MVP Act contending that respondent no.1 has encroached upon Government land to the extent of 12 X 8 feet. The learned Collector accepted petitioner's case and declared respondent no.1 as disqualified. The order of disqualification was subjected to challenge by respondent no.1 in Writ Petition No.2019/2024. On 25.07.2024 this Court allowed Writ Petition, thereby setting aside disqualification order passed by learned District Collector and dismissed complaint of petitioner.

3. The petitioner seeks review of order dated 25.07.2024 passed by this Court firstly on the ground that order is passed in absence of petitioner. Secondly, this Court accepted contention of respondent no.1 that he was residing separately in House No.2057 and unconcerned with House Nos.1166 and 2036, which are constructed on Government land and occupied by father and brother of respondent no.1.

4. It is contention of petitioner that respondent no.1 suppressed his earlier Aadhaar Card on which his address is mentioned as House

No.1166. Similarly, incomplete copy of sale deed dated 10.11.2017 was annexed. The notice issued by Village Panchayat to respondent no.1, so also Electricity Bill etc. have been suppressed from this Court.

5. The learned Advocate appearing for respondent no.1 submits that this Court has recorded categorized finding that since 2018 respondent no.1 is residing separately in House No.2057, which can be appreciated from Aadhaar Card, Ration Card, Tax Receipts and Electricity Bill. Therefore, there is nothing to establish factum of continued encroachment on Government land as contemplated by Supreme Court in case of *Janabai Vs. Additional Commissioner and Others*¹.

6. The petitioner contends that copy of Aadhaar Card, Electricity Bill and some other documents, which were part of disqualification proceeding before learned Collector were not brought to the notice of this Court. However, there is no substance in such contentions, as this Court has referred to Aadhaar Card, Ration Card, Tax Receipts and Electricity Bill to hold that respondent no.1 has separate residence from his father atleast since 2018.

7. In that view of matter, even taking contents of documents relied by petitioner, findings recorded by this Court about separate residence of respondent no.1 from his father would not be affected.

¹ 2018 (18) SCC 196.

8. The review jurisdiction of this Court can be exercised only when there is apparent error on record, which can be discerned on *prima facie* consideration of material on record. However, when petitioner wants re-appreciation of material on record and seeks to raise challenge to findings recorded by this Court, prayer for review cannot be entertained. The Supreme Court in case of ***S. Murali Sundaram Vs. Jothibai Kannan & Ors.***² has observed as under:

“5.1 While considering the aforesaid issue two decisions of this Court on Order 47 Rule 1 read with Section 114 CPC are required to be referred to? In the case of Perry Kansagra (supra) this Court has observed that while exercising the review jurisdiction in an application under Order 47 Rule 1 read with Section 114 CPC, the Review Court does not sit in appeal over its own order. It is observed that a rehearing of the matter is impermissible in law. It is further observed that review is not appeal in disguise. It is observed that power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. It is further observed that it is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy has been finally decided. After considering catena of decisions on exercise of review powers and principles relating to exercise of review jurisdiction under Order 47 Rule 1 CPC this Court had summed upon as under:

“(i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.

(ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any longdrawn process of reasoning on the points where there may conceivably be two opinions.

(iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.

(iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate.

(v) An application for review may be necessitated by way of invoking the doctrine actus curiae neminem gravabit.”

9. In light of aforesaid exposition of law and looking to grounds of review raised before this Court, no case is made out to exercise review jurisdiction. In result, Review Petition stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE