

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12158 OF 2025**

Mr. Ajit Kumar Devmore,
Age – 33 yrs, Occu.- Agriculturist,
R/o.- C.S.No.1281, Kumbhoj,
Tal.-Hatkanangle, Dist.-Kolhapur

.....Petitioner

Versus

1. Additional Commissioner, Pune
Division, Pune.
 2. Collector, Kolhapur.
 3. Gramsevak Officer,
Grampanchayat, Kumbhoj,
Tal.- Hatkanangle, Dist.- Kolhapur.
 4. Shri. Amen Appalal Tamboli,
Age- 61 yrs, Occu.-Business,
R/o. Kumbhoj, Tal.- Hatkanangle,
Dist. Kolhapur
-Respondents

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Mr. Sandeep Koregave a/w Ms. Pallavi A. Karanjkar, Advocate for
Petitioner.
Mr. Sanjay D. Rayrikar, AGP for Respondent Nos.1 and 2.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 12th NOVEMBER, 2025.**

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties,
matter is taken up for final hearing at admission stage.
2. The petitioner impugns order dated 07.10.2025 passed by
Additional Divisional Commissioner, Pune Division, Pune in Appeal
No.75/2024, thereby upholding order dated 25.11.2024 passed by

District Collector, Kolhapur in Complaint No.31/2023, thereby declaring petitioner as disqualified being member of village panchayat under provisions of Section 14(1)(J-3) of Maharashtra Village Panchayat Act, 1959 (for short 'MVP Act').

3. The respondent no.4 initiated proceeding before District Collector contending that petitioner is elected as member of village panchayat Kumbhoj. He has encroached upon gairan land and raised construction of house. Eventually, sought declaration that petitioner is disqualified in terms of Section 14(1)(J-3) of MVP Act. The petitioner caused his appearance before District Collector and refuted allegations in complaint. According to petitioner, he is not residing in property situated in Government land.

4. The respondent no.2 caused spot panchanama and recorded four boundaries of property alongwith nature of construction and concluded that petitioner has encroached upon Government land. The order passed by District Collector, Kolhapur is confirmed by Additional Divisional Commissioner, Pune Division, Pune in Appeal.

5. Mr. Sandeep Koregave, learned Advocate appearing for petitioner submits that petitioner is elected representative and member of Grampanchayat. He is disqualified under Section 14(1)(J-3) of MVP Act alleging that he is encroacher on Government land. In such case, there must be cogent and reliable evidence quelling

allegations of encroachment. The order of disqualification cannot be passed unless allegation leading to disqualification are proved with concrete material and not on the basis of preponderance of possibilities. He would submit that District Collector relied upon spot panchanama caused by Circle Officer, which is not in conformity with technical requirements to prove factum of encroachment. He would further submit that register of assessment maintained by village panchayat nowhere depicts gat numbers or survey numbers of Government land where petitioner's property bearing Grampanchayat No.3480 is situated. Mere entry as "State of Maharashtra" in ownership column in assessment register would not be sufficient to hold that petitioner is encroacher of Government land. In support of his contentions he relies upon observations of this Court in cases of *Sau Lalita Dilip Khandalkar Vs. Additional Commissioner and Others*¹, *Lalita Raju Deshmukh Vs. Additional Commissioner, Aurangabad Division and Others*², *Santosh Ramesh Waghela and Others Vs. Santosh Sakharam Bhore and Others*³ and two unreported judgments in cases of *Dattatray Sarjerao Shinde Vs. Additional Commissioner, Pune and Ors.* (Writ Petition No.2019/2024 decided on 25.07.2024) and *Vijay Sopan Dongare Vs. Ramesh narayan Ghadge and Others* (Writ Petition No.11309/2016 decided on 15.10.2018).

1 (2019) 3 AIR Bom R 382.

2 2023 SCC OnLine Bom 2263.

3 (2025) 2 Mah LJ 743.

6. Mr. Sanjay Rayrikar, learned AGP supports impugned order relying upon observations made therein.

7. Having considered submissions advanced by learned Advocates appearing for respective parties, only issue that requires consideration in this Writ petition is whether there is satisfactory material to prove that petitioner has encroached upon Government land and incurred disqualification under Section 14(1)(J-3) of MVP Act.

8. The gist of allegations against petitioner is that he owns Grampanchayat property no.3480. The assessment register depicts name of State of Maharashtra as owner and name of petitioner as possessor. The petitioner and his father is residing in said property. The petitioner filed his reply in dispute before District Collector stating that Grampanchayat property no.3480 was never part of gairan land. Further, petitioner never resided in Grampanchayat property no.3480, but he is residing in CTS No.1281. The District Collector observed in impugned order that land Gut No.1722 of village Kumbhoj was measured by Competent Authority and boundaries are fixed as per measurement register no.9150/2023. The said measurement was carried during 15.06.2023 to 17.06.2023. The petitioner was found in possession of property in Gut No.1722. The District Collector observed that petitioner could not bring on record any material depicting his title over suit property. The District

Collector has further observed that another panchanama drawn by Village Development Officer, Grampanchayat Kumbhoj, Circle Officer, Hatkanangle and Talathi, Kumbhoj dated 08.06.2023 also depicts possession and enjoyment of Grampanchayat property no.3480 by petitioner and his family members. Another defence of petitioner that he is residing in ancestral house situated in CTS No.1281 and not alongwith his parents could not be justified by him by leading cogent evidence. The Additional Divisional Commissioner has also concurred with aforesaid findings.

9. Perusal of record tendered before this Court shows that Grampanchayat assessment register for year 2019-20 maintained by Grampanchayat Kumbhoj records Grampanchayat property no.3480 in name of petitioner's father as possessor and name of State of Maharashtra as owner. The petitioner could not bring on record any material to show that he has objected to aforesaid entry in Grampanchayat register depicting his construction of house in Government land. The Supreme Court in case of ***Janabai Vs. Additional Commissioner and others***⁴ while interpreting object and purpose of Section 14(1)(J-3) of MVP Act observed as under:

“30. We may note here with profit that the word “person” as used in Section 14(1)(j-3) is not to be so narrowly construed as a consequence of which the basic issue of “encroachment” in the context of disqualification becomes absolutely redundant. The legislative intendment, as we perceive, is that encroachment or unauthorized occupation

4 AIR 2018 SC 5068.

has to viewed very strictly and Section 53, therefore, provides for imposition of daily fine. It is also to be borne in mind that it is the Panchayat that has been conferred with the power to remove the encroachment. It is the statutory obligation on the part of the Panchayat to protect the interest of the properties belonging to it. If a member remains in occupation of an encroached property, he/she has a conflict of interest. If an interpretation is placed that it is the first encroacher or the encroachment made by the person alone who would suffer a disqualification, it would lead to an absurdity. The concept of purposive would impel us to hold that when a person shares an encroached property by residing there and there is continuance, he/she has to be treated as disqualified. Such an interpretation subserves the real warrant of the provision. Thus analysed, we are of the view that the decision in Sagar Pandurang Dhundare does not lay down the correct position of law and it is, accordingly, overruled.”

10. Applying aforesaid exposition of law to the facts of present case, although Grampanchayat house no.3480 stands in name of petitioner's father, panchanama shows that petitioner is residing alongwith his parent in same house. The petitioner could not bring any evidence to show that he is residing in his house situated at CTS No.1281 as contended by him. In given scenario, conclusion drawn by District Collector and confirmed by Additional Divisional Commissioner that petitioner incurred disqualification being encroacher on Government land cannot be faulted. The evidence on record is sufficient to hold that petitioner alongwith his family members are enjoying house property in land owned by Government.

11. Although Mr. Sandeep Koregave relies upon various reported and unreported judgments of this Court, each of the judgment is

distinguishable on facts. In those cases, allegation of encroachment was not supported by any material or there was dispute as regards to boundaries between house property of elected representative and Government land. The same is not case here. The consistent Grampanchayat record from 2019 shows construction stands in name of petitioner's father, which is raised on Government gairan land. Hence, no case is made out to cause interference under Article 227 of Constitution of India.

12. In result, Writ Petition stands dismissed.

13. Rule stands discharged.

(S. G. CHAPALGAONKAR)
JUDGE