

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.13888 OF 2023

VAIBHAV
RAMESH
JADHAV
Digitally signed by
VAIBHAV RAMESH
JADHAV
Date: 2025.01.29
18:06:36 +0530

Ajit Harishchandra Kamble

... Petitioner

V/s.

Sachin Madhukar Kamble & Ors.

... Respondents

Mr. Tukaram Shendge with Mr. Kishor Ajetroa for the petitioner.

Ms. Reena Prajapati h/f Mr. Samay Pawar for respondent No.1.

Ms. M. S. Bane, AGP for the State-respondent Nos.4 and 6.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 29, 2025

P.C.:

1. By this writ petition under Article 227 of the Constitution of India, the petitioner assails the judgment and order dated 30 October 2023, rendered by the Additional Divisional Commissioner, Pune Division, in Appeal No.10 of 2023, whereby the authority affirmed the order of the Collector disqualifying the petitioner under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act, 1959 ("the Act"). The disqualification stems from the finding that a family member of the petitioner unlawfully encroached upon government land.

2. On 18 December 2022, the petitioner was elected as a

member of the Village Panchayat of Bolwad, Taluka Miraj, District Sangli, under the reserved category for Scheduled Castes. Subsequently, Disqualification Application No.2 of 2023 was instituted before the Collector, alleging that the petitioner had contravened Section 14(1)(j-3) of the Act by virtue of an encroachment on government land admeasuring City Survey No.127 (House No.631). The application underscored that such encroachment, being a statutory disqualification under the Act, vitiated the petitioner's eligibility to hold office.

3. The petitioner contested the allegations, asserting that the encroachment in question was solely attributable to his mother, with whom he purportedly maintained no financial or residential nexus. He averred that he had been residing separately as a tenant on City Survey No.231, wholly unconnected to the disputed property, and further denied deriving any direct or indirect benefit from the encroachment. In support, the petitioner proffered a leave and license agreement pertaining to Survey No.231, contending that his independent residence negated any presumption of complicity or vicarious liability under the Act.

4. The Collector, however, invoking the precedent of the Supreme Court in *Janabai v. Additional Commissioner & Ors.*, reported in (2018 (18) SCC 196), held that the petitioner's familial relationship with the encroacher and his failure to dissociate himself from the illegal occupation attracted disqualification under Section 14(1)(j-3) of the Act. The Collector emphasized that the statutory provision, read in light of *Janabai*, casts a duty on elected representatives to ensure that neither they nor their family

members unlawfully occupy public property. The Appellate Authority, in its impugned order, concurred with the Collector's findings, observing that the petitioner's evidence failed to rebut the statutory presumption of disqualification. Aggrieved thereby, the petitioner has invoked this Court's jurisdiction under Article 227, contending that the concurrent findings are perverse and legally untenable.

5. Learned counsel for the petitioner strenuously urged that the leave and license agreement for Survey No.231 irrefutably demonstrates his client's residential independence and lack of control over the encroached property. He argued that the authorities erred in conflating the petitioner's filial relationship with his mother's actions, absent substantive evidence of his active involvement or benefit.

6. This Court, however, finds no merit in the submissions. The record unequivocally reveals that the petitioner, vide an application dated 20 February 2022, sought mutation of his name as the legal heir of his deceased mother, Sonabai, in relation to the encroached property (Survey No.127). This conduct, manifesting prior to his election, belies his assertion of disinterest and instead substantiates a tangible claim over the disputed land. As held in *Janabai*, the statutory disqualification under Section 14(1)(j-3) operates not merely against personal encroachment but extends to familial encroachments where the elected member fails to establish a clear severance of ties or interest. The Appellate Authority rightly concluded that the petitioner's application for mutation constituted an unequivocal acknowledgment of his stake in the property,

thereby attracting the rigors of the disqualification clause. Furthermore, the petitioner's inability to produce cogent evidence to dissociate himself from the encroachment vitiates his defense under the Act.

7. It is well-settled in law that a writ court exercising jurisdiction under Article 227 cannot reappraise factual findings or substitute its view for that of the statutory authorities unless the decision is shown to be patently arbitrary, capricious, or in defiance of law (*Shalini Shyam Shetty v. Rajendra Shankar Patil*, (2010) 8 SCC 329). The authorities below, having meticulously evaluated the evidence and applied the binding precedent in **Janabai**, arrived at a plausible conclusion warranting no interference. The petitioner's attempt to distinguish his case on the basis of tenuous residential arrangements overlooks the substantive statutory intent of Section 14(1)(j-3), which seeks to uphold probity in public office by disqualifying those who, directly or through family, exploit public resources.

8. In light of the foregoing, this Court discerns no jurisdictional infirmity, perversity, or legal misdirection in the impugned orders. The writ petition is devoid of merit and accordingly stands dismissed. No order as to costs.

(AMIT BORKAR, J.)