

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

WRIT PETITION NO. 2076 OF 2024

Uttam Nivrutti Nigade

... Petitioner

Versus

The State Of Maharashtra
Throu. The Secretary Rural
Development Dept And Ors

... Respondents

Mr. Yuvraj S. Gharal *for the Petitioner.*

Mr. B.B. Dahiphale, *AGP for Respondent Nos. 1 to 3-State.*

Mr. Drupad S. Patil *a / w Mr. Dheeraj D. Patil for Respondent No.7.*

CORAM : SANDEEP V. MARNE, J.

DATE : 1 APRIL 2025.

P.C. :

1) The Petition challenges order dated 11 December 2023 passed by the Additional Divisional Commissioner, Pune rejecting the Appeal preferred by the Petitioner and confirming the order dated 16 February 2023 passed by the Collector Kolhapur disqualifying the Petitioner from being member of the Gram Panchayat under provisions of Section 14(1)(j-3) of the Maharashtra Village Panchayat Act, 1958.

2) I have heard Mr. Gharal, the learned counsel appearing for Petitioner and Mr. Patil, the learned counsel appearing for Respondent No.7 and Ms. Dahiphale, the learned AGP appearing for Respondent Nos. 1, 2 and 3.

3) After having considered the submissions canvassed by the learned counsel appearing for parties, it is seen that disqualification of Petitioner from being member of Gram Panchayat was premised on existence of structure constructed by him on Gat No. 141, which is Gairan Land as per the revenue records. Petitioner has not made any attempt to disassociate himself from the subject structure. In fact he had filed Regular Civil Suit No. 92 of 2021 in the Court of Civil Judge Senior Division, Kolhapur challenging resolution adopted by Gram Panchayat on 22 January 2021 by which his name was decided to be deleted from the Gram Panchayat assessment register *qua* the subject structure. Thus Petitioner clearly admits his association with the subject structure and in fact claims ownership thereof. The only defence that the Petitioner has raised is about the location of the said structure. According to him, the structure is located in land bearing Gat No.891, which is his ownership land. However the Collector and Divisional Commissioner have concurrently recorded finding of fact that the structure of the Petitioner is located on land bearing Gat No. 141. It appears that during pendency of the Dispute Application, Collector had directed conduct of measurements and accordingly measurement of land bearing Gat No. 141 was conducted on 3 August 2022. In the map prepared after conduct of measurements, it has transpired that Petitioner's structure is located in land bearing Gat No. 141.

4) Mr. Gharal would raise an objection to the manner in which the measurement was conducted in pursuance of order passed by the Collector. He would submit that Petitioner has filed objection to the said measurement and has subsequently filed Appeal before the Superintendent of Land Records, Kolhapur. However the said Appeal appears to be filed on 13 February 2025 questioning

measurement conducted three years ago on 3 August 2022. Be that as it may. As of now there no document on record to indicate presence of Petitioner's structure on land bearing Gat No. 891. Petitioner has not made any efforts for getting land at Gat No. 891 measured independently. The measurement map of Gat No. 141 would in fact indicate that the boundaries of the said land do not correspond with the boundaries of land bearing Gat No. 891.

5) In my view therefore no case is made out for interference in concurrent findings recorded by the Collector and Divisional Commissioner that Petitioner had built a structure on Gairan land belonging to the State Government. Since encroachment on Government land is clearly established, provisions of Section 14(1)(j-3) would clearly get attracted in the present case. Petition is thus devoid of merits and it is accordingly **dismissed**.

[SANDEEP V. MARNE, J.]