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

WRIT PETITION NO.4039 OF 2025

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Arun Harendra Chavan

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. Shantanu S. Kalekar for the petitioner.

Ms. Aloka A. Nadkarni, AGP for respondent Nos.1, 3, 4,
& 5-State.

Mr. Rahul Kasbekar for respondent No.2.

CORAM : AMIT BORKAR, J.**DATED : APRIL 15, 2025****P.C.:**

1. By this petition under Article 226 of the Constitution of India, the petitioner seeks to challenge the legality and propriety of the order passed by the Divisional Commissioner, thereby allowing the appeal preferred by respondent No.2, an elected member of the Grampanchayat, who was earlier disqualified by the Collector under clause (j-3) of Section 14(1) of the Maharashtra Village Panchayats Act, 1959 (for short, "the said Act").

2. The factual matrix giving rise to the present controversy is that the petitioner had instituted proceedings before the Collector alleging that respondent No.2 was disqualified from continuing as a member of the Grampanchayat on the ground that her brother-

in-law had encroached upon Government land bearing Survey No.911. In support of such contention, the petitioner relied upon the register maintained by the Grampanchayat, wherein alleged encroachments were recorded. It was further urged that the voters' list for the year 2024, reflecting the residential status of respondent No.2 and her family members, was also placed on record before the Collector at the stage of written submissions.

3. Per contra, learned counsel appearing on behalf of respondent No.2 submitted that the list of documents produced before the Collector does not indicate that the voters' list for the year 2024 was, in fact, tendered or taken on record. It was also urged that the respondent had placed reliance upon the ration card and socio-economic and caste census (SECC) data, which disclosed that the brother-in-law of respondent No.2 was residing separately and not as part of a common household with respondent No.2 or her husband.

4. On a careful perusal of the impugned order passed by the Appellate Authority, it is evident that the Appellate Authority recorded a categorical finding that the complainant had failed to produce credible documentary evidence to establish that the brother-in-law of respondent No.2 was residing jointly with respondent No.2's husband and family. The Appellate Authority also considered the documentary material in the form of ration card and SECC survey, which indicated that the two brothers—namely, respondent No.2's husband and her brother-in-law—resided independently in separate residential establishments. In the absence of any cogent material to the contrary, the Appellate

Authority found no ground to sustain the disqualification under Section 14(1)(j-3) of the said Act.

5. In this context, it would be apposite to refer to the well-settled principle that an elected representative of a local body cannot be disqualified on the basis of mere allegations or surmises. The disqualification contemplated under clause (j-3) of Section 14(1) of the said Act must be clearly established by unimpeachable evidence demonstrating that the encroachment is by a person residing jointly with the elected member and is a part of the same household. In the absence of such proof, the drastic consequence of disqualification ought not to be invoked. It is well settled that election laws must be strictly construed, and disqualification of an elected representative must be founded on clear and convincing evidence, particularly keeping in view the sanctity of electoral mandate.

6. In the present case, having regard to the fact that the Collector's order was based on presumption rather than definite proof, and further that the Appellate Authority has given due consideration to independent documentary material evidencing separate residence, I am of the considered view that the Appellate Authority was justified in allowing the appeal. The order impugned in the writ petition does not suffer from any jurisdictional error or perversity so as to warrant interference in the exercise of writ jurisdiction under Article 226 of the Constitution of India.

7. In view of the foregoing discussion, I find no merit in the writ petition. The same stands dismissed. Rule is discharged. No order as to costs.

(AMIT BORKAR, J.)