

VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5355 OF 2025

Santosh Shivaji Jadhav

... Petitioner

V/s.

The Additional Divisional Commissioner
Pune & Ors.

... Respondents

Mr. Ashwin R. Kapadnis for the petitioner.

Mr. Shantanu Raktate i/by Mr. Amar Parsekar with
Ajinkya Desai for respondent No.4.

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CORAM : AMIT BORKAR, J.

DATED : APRIL 25, 2025

PC.:

1. The petition raises substantial and arguable questions of law and fact, which merit closer scrutiny by this Court in its supervisory jurisdiction under Article 226 of the Constitution of India. Hence, Rule.

2. Prima facie, it appears that by an order of allotment dated 18th July 2018, Survey No.2A, admeasuring 0.95 hectares, was allotted in favour of the District Sports Officer, also referred to as the Taluka Sports Committee. The allotment order, more particularly Clause No.8 thereof, stipulates that the status of the allottee shall be that of a *Class-II occupant*. The term *Class-II occupant*, as defined under the Maharashtra Land Revenue Code,

1966, is not without legal significance. A plain reading of the definition indicates that a Class-II occupant holds the land from the State Government, but not as absolute owner. The proprietary title continues to vest in the State, while possession and enjoyment is conferred upon the occupant, subject to restrictions imposed under the law. In effect, such occupant holds the land as a lessee under conditions prescribed by the Government.

3. In the instant case, upon the conferment of such Class-II occupancy rights upon the Taluka Sports Committee, the land in question underwent a transformation in its legal character. The Government, though continuing to be the owner in title, had relinquished its direct dominion over the land by vesting possessory rights in the Committee. The District Sports Officer, acting as the head of such Committee, therefore assumes an administrative fiduciary capacity over the land, albeit under legal limitations and subject to the terms of allotment.

4. The issue arises when such allotment is tested against the bar contemplated under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act, 1958, which envisages disqualification from contesting elections if a person is found to have encroached upon government land or public property. The expression *government land or public property* as used in the said clause must be construed in accordance with the settled principles of statutory interpretation.

5. At the present stage, this Court is only called upon to examine whether prima facie the allotment has divested the land

of its status as *government land or public property* for the purpose of the disqualification provision. Once Class-II occupancy rights have been granted, though the title may still rest with the State, the character of the land ceases to be that of unencumbered government property. The allottee steps into the shoes of a lawful occupant, whose rights may not be equated with that of an encroacher or unauthorised holder.

6. Hence, a prima facie case is made out that the land, once allotted in the manner indicated and subjected to possession under Class-II status, may no longer be viewed as government land or public property in the context of Section 14(1)(j-3) of the 1958 Act. The disqualification contemplated under the said provision appears to be aimed at unauthorised occupation or trespass, and not lawful occupancy conferred by the State.

7. In such view of the matter, and to ensure that no irreparable prejudice is caused to the petitioner, this Court finds it appropriate to grant interim protection. Accordingly, until further orders, there shall be ad-interim relief in terms of prayer clause (b) of the petition.

(AMIT BORKAR, J.)