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

WRIT PETITION NO.6026 OF 2025

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Manoj Barku Dalvi

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

Ms. Minal Chandnani for the petitioner.

Mr. S.D. Rayrikar, AGP for respondent Nos.1 & 2-State.

CORAM : AMIT BORKAR, J.

DATED : MAY 5, 2025

PC.:

1. The present writ petition challenges the legality and validity of the order passed by the Additional Commissioner, which confirms the earlier order of disqualification passed by the Collector under *Section 14(1)(j-3)* of the *Bombay Village Panchayats Act, 1959*. The ground for disqualification is that the petitioner's family has encroached upon government land, which is public property. Under the said provision, if a person or any of his/her family members is found to be in unauthorized possession of public land or property, such person becomes ineligible to hold the office of a Panchayat member.

2. In response to the disqualification proceedings, the petitioner submitted that he has been residing separately from his father and

other family members, and that a partition between him and his father took place as far back as the year 2016. According to the petitioner, since the alleged encroachment pertains to a property occupied by his father, and not by him personally, he cannot be held liable or disqualified under the said provision.

3. However, upon examining the record, the authorities found that the petitioner, at the time of contesting the Panchayat elections, submitted a declaration stating that he had an independent latrine located in House No. 328. It is admitted that House No. 328 stands on government land and is an encroached property. Importantly, the petitioner's father is also residing in that very property. The petitioner has relied on a document of partition allegedly executed in 2016 to claim that he was separated from his father. But declaration submitted in 2020 undermines his own claim that the separation took place in 2016. Thus, when the petitioner himself relies upon a document of the year 2020, his plea of separation from the family in 2016 loses its probative value.

4. Moreover, the construction of an independent latrine by the petitioner in House No. 328 as late as 2020 further indicates continued involvement or residence in the encroached premises. When a person seeks exemption from disqualification on the basis of separation, needs to establish that he was genuinely and legally separated from the encroaching family prior to the date of nomination. In this case, not only has the petitioner failed to prove this convincingly, but his own documents suggest the contrary.

5. In view of the above, it is apparent that the authorities have rightly concluded that the petitioner continues to have a connection with the encroached government property through his family. The findings of the Collector and the Additional Commissioner are based on cogent material and proper appreciation of facts. Therefore, no interference is warranted by this Court in the impugned orders. The writ petition is devoid of merit and is liable to be dismissed.

6. The writ petition stands dismissed. No costs.

(AMIT BORKAR, J.)