



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.1202 OF 2025

(Sau. Ganga Rameshwar Ingole Vs. The Additional Commissioner, Amravati Division,
Amravati and others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. Piyush S. Kadam, Advocate for Petitioner.
Ms. Kalyani Marpakwar, AGP for Respondent Nos.1 to 4/State.
Mr. I. A. Fidvi, Advocate for Intervenors.

CORAM: ANIL L. PANSARE, J.

DATE: 6th MAY, 2025.

On 05.03.2025, the following order was
passed:

Heard.

2. *The Petitioner/Sarpanch has been disqualified under Section 14(1) (j-3) of the Maharashtra Village Panchayat Act, 1958 (for short, 'the Act of 1958').*

3. *The Petitioner has placed on record the ration card in support of her contention that she is residing at the different address. Despite such status, the authorities below, by relying on the enquiry report submitted by the Respondent No.5/Block Development Officer, Achalpur, held that the Petitioner is residing with her in-laws, who have allegedly encroached upon the Government land.*

4. *I have gone through the report to find that there is no cogent evidence indicating that the Petitioner is residing with her in-laws. Rather the report indicates that in Extract-8, there is no entry showing any immovable property in the name of Petitioner*

and her husband. If the theory that the elected Member does not have immovable property in her name, would then necessarily reside with in-laws or relative is to be accepted merely on the basis of statement made by the persons like Respondent No.7/the Member of opposite party, the disqualification of an elected Member will be at the mercy of such persons.

5. The Hon'ble Supreme Court has, time and again, held that disqualification/removal is a serious action, and therefore, the authorities below must record satisfaction based on cogent evidence in support of the allegations levelled against them, before passing order of disqualification.

6. In the present case, the authorities appears to have dislodged the elected Sarpanch in most casual manner.

7. Issue notice to the Respondents, returnable in four weeks.

8. Ms. K. P. Marpakwar, the learned AGP, waives service of notice on behalf of the Respondent Nos.1 to 4 and Mr.Gawande, learned Counsel, waives service of notice on behalf of the Respondent No.7.

9. In the meantime, there shall be stay to the impugned order dated 24/1/2025 passed by the Additional Commissioner, Amravati in Appeal No. 24/BVP-16(2)/Yeota Dist. Amravati/2024.

2. As could be seen, there is no cogent evidence to show that the petitioner is residing with her in-laws. Rather, the report indicates that no immovable property stands in the name of the petitioner or her husband. In the circumstances, there is no evidence that petitioner is/was residing with her in-laws. She could not have been

disqualified for the act committed by her in-laws, particularly, when there is no evidence to show any nexus of the petitioner with the alleged encroachment.

3. At this stage, Mr. Fidvi, learned counsel submits that he is appearing for the Members of Gram Panchayat and seeks permission to intervene in the matter. As such intervention of Members of Gram Panchayat was not necessary. The order passed by respondent nos.1 and 2 is being tested. The learned counsel for complainant appeared on previous date, however, none appears today.

4. The insistence of the Members is on the ground that there are various judgments of the High Courts and Supreme Court taking a view, whether or not the persons like the petitioner has any nexus with the encroached portion, he/she is liable for action under Section 14(1)(j-3) of the Maharashtra Village Panchayat Act, 1958 (for short, 'the Act of 1958'), the moment his or her relatives make encroachment and/or continue the same after his/her election.

5. The argument, on the face of record, appears to be without any substance. Nonetheless, the counsel insisted to go through the judgment.

6. He was accordingly put to notice that if the proposition put-forth is found to be incorrect, heavy costs will be imposed for wasting judicial time of the Court.

7. Despite, the learned counsel for the intervenor has placed reliance on following judgments.

[i] Parvatabai @ Shobha d/o Kisan Kakde v. Additional Commissioner, Nagpur and others 2015(5) Mh.L.J. 238.

[ii] Sandip Ganpatrao Bhadade v. Additional Commissioner, Amravati and others 2017(1) Mh.L.J. 79.

[iii] Devidas s/o Matiramji Surwade v. Additional Commissioner, Amravati and others 2017(1) Mh.L.J. 102.

8. I have gone through the judgments to find that the elected member was residing in the house encroached upon government property. The argument before the Court was that it is not the elected member, who has made encroachment but his father or other member of the family were responsible for the alleged encroachment. This argument was struck down on the ground that by occupying the alleged encroached property, the elected member continued to occupy the premises, part of which is an encroachment over the government land. In that context, the Court held that encroachment by a family member is sufficient to attract disqualification.

9. Such is not the case here. As noted earlier, there is no evidence indicating that the petitioner was

residing with her in-laws nor is there any evidence showing any nexus of the petitioner with the alleged encroachment made by her in-laws. That being so, the Members of Gram Panchayat, who sought to intervene in the matter could not have insisted on removing petitioner on the ground of she having encroached upon government land. The members further have unnecessarily insisted for intervention and have relied upon the judgment which were not applicable to the facts of the present case.

10. Put all together the authorities below committed serious error of law by imposing disqualification upon the petitioner under Section 14(1)(j-3) of the Maharashtra Village Panchayat Act, 1958. The order dated 24.01.2025 passed by respondent no.1 in Appeal No.24/BVP-16(2)/Yeota Dist. Amravati/2024 and the order dated 20.06.2024 passed by respondent no.2 in G.P. Case No.Sec.14(I)(J-3)/Yeota-44/2022-23 are quashed and set aside.

11. The application seeking intervention is rejected with costs of Rs.15,000/- to be paid by the applicant to the petitioner within four weeks from today.

12. The petition is allowed and disposed of in the above terms.

(ANIL L. PANSARE, J.)