



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

Writ Petition No.4265/2024

Janrao Kawadu Patil,
Age 65 years, Occ.- Agri., R/o Galavha, Post Karalgaon,
Tq. Babhulgaon, Dist. Yavatmal.

.... Petitioner

- Versus -

1. Additional Commissioner, Amravati Division, Amravati.
2. Additional Collector, Yavatmal, Tq. and Dist Yavatmal.
3. Rahul Haridas Sahare, Age 40 years, Occ-Agri.
4. Kishor Namdevrao Damedhar, Age 42 years, Occ-Agri,
Both 3 and 4 r/o Galavha, Post Karalgaon,
Tq. Babhulgaon, Dist.Yavatmal.

5. Secretary, Gram Panchayat,
Galavha, Tq. Babhulgaon, Dist.Yavatmal.

.... Respondents.

Mr. PA. Kadu, Advocate for petitioner.
Mr. A.V. Bhide, Advocate for respondent no.4.
Mrs. M.S. Naik, AGP for respondent nos.1 and 2.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : 15-09-2025.

J u d g m e n t

Rule. Rule made returnable forthwith. Heard finally by consent of parties.

2. This petition takes exception to the order dated 08-04-2024 passed by respondent no.1/Additional Commissioner, Amravati Division Amravati, confirming order dated 29-09-2022 passed by respondent no.2/Additional Collector, Yavatmal, thereby disqualifying the petitioner from the post of Member and

Up-Sarpanch of Gram Panchayat Galavha, Tq. Babhulgaon, District Yavatmal.

3. Heard Mr. Kadu, learned Advocate for the petitioner as well as learned Assistant Government Pleader for respondent nos. 1 and 2 and Mr. Bhide, learned Advocate for respondent no.4.

4. The controversy involved in the petition is with respect to challenge to the orders passed by the authorities, thereby disqualifying the petitioner as Member of the Gram Panchayat under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act, 1959 (for short, 'the Act'), on account of encroachment over the land of Gram Panchayat allegedly committed by the son of the petitioner by constructing a Pan Shop. In this regard, learned Counsel for the petitioner has invited my attention to a report dated 03-09-2021 submitted by the Sarpanch and Secretary of the Gram Panchayat to the Block Development Officer, Panchayat Samiti Babhulgaon, thereby specifically mentioning that on the basis of spot inspection it was revealed that there is a Pan Shop admeasuring 10 x 10 ft. belonging to one Mr. Sachin Ramkrushna Naik. It is specifically stated in the report that on that Pan Shop Mr. Siddharth Janrao Patil son of petitioner works along with the owner. With respect to the same controversy, the Block Development Officer, Panchayat Samiti Babhulgaon issued letter dated 28-09-2021, calling for the details from the Sarpanch of the Gram Panchayat. In this process, a

statement of Mr. Sachin Ramkrushnaji Naik was recorded on 29-07-2021, in which he has categorically stated that he is running a Pan Shop on the land admeasuring 7 x 8 ft. touching the old Gram Panchayat building. He has also categorically stated that the Pan Shop belongs to him and the petitioner's family has no connection with that Pan Shop.

5. After about a year after this enquiry was conducted, it appears that the Gram Panchayat has passed one resolution in its meeting dated 23-07-2022, thereby resolving to remove the encroachment of the said Pan Shop. On the basis of this resolution of the Gram Panchayat, respondent nos.3 and 4 filed application and initiated proceedings before respondent no.2/Additional Collector, Yavatmal, seeking disqualification of the petitioner under Section 14(1)(j-3) of the Act. Respondent no.1 has passed final order dated 29-09-2022, thereby disqualifying the petitioner from the post of Member and Up-Sarpanch of the Gram Panchayat. Petitioner challenged this order before respondent no.1 by way of appeal; which came to be dismissed by order dated 08-04-2024, consequently upholding the disqualification of the petitioner.

6. Learned Counsel for the petitioner vehemently submitted that the impugned orders are passed by respondent nos. 1 and 2 without considering the report dated 03-09-2021 submitted by the Secretary and Sarpanch of the Gram Panchayat to the Block

Development Officer and the statement dated 29-07-2021 given by Mr. Sachin Ramkrushnaji Naik, referred above. He vehemently submits that the impugned orders are passed only on the basis of resolution of the Gram Panchayat dated 23-07-2022. He, therefore, submits that the impugned orders are arbitrary and unsustainable.

7. Opposing the petition, learned Assistant Government Pleader as well as Mr. Bhide learned Advocate for respondent no.4 submitted that the Gram Panchayat resolution dated 23-07-2022 was passed unanimously and therefore the same cannot be questioned. It is submitted that the impugned orders are passed after considering the relevant material and needs no interference.

8. Perusal of the impugned orders show that the authorities have completely relied only on the Gram Panchayat resolution. Earlier report of the Secretary and Sarpanch submitted on 03-09-2021 to the Block Development Officer and statement of Mr. Sachin Ramkrushnaji Naik are not at all considered. A perusal of this report and statement clearly show that the said Pan Shop belongs to Mr. Sachin Naik and there is no material to conclude that the petitioner's son has committed any encroachment on the Government land. It has to be noted that a conclusion about encroachment on Government land has to be based on a spot inspection report conducted by a competent authority in presence of the concerned persons. There is no spot inspection report on the

basis of which the authorities could conclude about the fact of encroachment by the petitioner's son. It has to be noted that the petitioner is a democratically elected Member of the Gram Panchayat and the decision about his disqualification has to be based on the concrete material. In the instant matter, the impugned orders are passed only by referring to the resolution of the Gram Panchayat and in absence of any spot inspection report conclusively mentioning encroachment by the petitioner or his son, the impugned orders cannot be sustained.

9. In the light of above mentioned factual and legal aspects, the impugned orders are unsustainable in law. The same are quashed and set aside. Writ Petition is accordingly allowed.

10. Rule is made absolute in above terms. No order as to costs.

(Prafulla S. Khubalkar, J.)