



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

Writ Petition No.5102 of 2024

Smt. Pushpa Vishnu Bhakre

vs.

The Additional Commissioner, Amaravati Division, Amaravati and others

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

*Mr. G.B. Mate, Advocate for the Petitioner.
Mr. Bhagwan Lonare, A.G.P. for Respondent Nos.1, 2 & 5.
Mr. A.M. Tirukh, Advocate for Respondent No.4.
Mr. R.D. Karode, Advocate for Respondent No.6.*

CORAM : **R.M. JOSHI, J.**
DATE : **1st JULY, 2025.**

This petition takes an exception to the order dated 29/12/2023 passed by the Collector, Akola in disqualification proceedings of the petitioner under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act, 1959 (*hereinafter referred to as "Act" for short*), whereby it is held that the petitioner, who is the Member of the Gram Panchayat and Deputy Surpanch, has carried out encroachment on Government/Public property. This order came be confirmed by the Additional Commissioner, Amravati in an appeal filed under Section 16(2) of the Act.

02. Heard the learned Counsel for both sides.

03. There is no dispute about the fact that the petitioner has specifically raised plea before the Collector that the father-in-law of the petitioner has purchased the property in question from the erstwhile owner, who was allotted the said plot by order dated 30/06/1966. Similarly, the litigation in respect of the said allotment was also brought to the notice of the Collector. The order impugned indicates that such

submissions were made and the documentary evidence was also placed on record to substantiate the same.

04. In spite of this, the Collector has not taken into consideration the said contention and has not dealt with the same. In order to disqualify the petitioner by invoking the provisions of Section 14 (1)(j-3) of the Act, there has to be a finding of fact recorded by the Collector that there is an encroachment on the Government/public property. Here in this case, *prima facie* there is material placed on record by the petitioner in order to substantiate her legal and valid possession over the subject plot. In such circumstances, it was absolutely necessary for the Collector to deal with the said issue. This issue has not been dealt with. The order passed by the Collector is unreasoned and in ignorance of the material fact, which is sought to be placed before him. In such circumstances, the said order is not sustainable. It is more shocking that the Officer of the rank of Additional Commissioner has also not found it necessary to consider the case sought to be made out by the party and he has blindly followed the order passed by the Collector. Thus both orders sans merit and deserve to be set aside. The proceedings are relegated back to the Collector for decision afresh in accordance with law. The parties are directed to appear before the Collector on 14th July, 2025.

(R.M. Joshi, J.)

**sandesh*