



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

WRIT PETITION NO. 6474 OF 2024

Karuna Vilas Ingle, Aged 36 years, Occ: Household,
R/o Jawala Shahapur, Tq. Chandur Bazar, Dist. Amravati.

PETITIONER

VERSUS

1. Additional Commissioner, Amravati Division,
Amravati, Tq. & Dist. Amravati.
2. Additional Collector, Amravati, Tq. & Dist. Amravati.
3. Secretary, Village Panchayat, Jawala Shahapur,
Tq. Chandur Bazar, Dist. Amravati.
4. Shubham Prakash Gawai, Aged 29 yrs., Occ: Agriculturist,
R/o Jawala Shahapur, Tq. Chandur Bazar, Dist. Amravati.

RESPONDENTS

Shri N.A. Gawande, counsel for the petitioner.
Shri A.A. Madiwale, Assistant Government Pleader for the respondent nos.1 and 2.
None for the respondent nos.3 and 4, though served

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : DECEMBER 02, 2025

ORAL JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with consent of the learned counsel for the parties.

2. The petitioner, an elected Sarpanch of Gram Panchayat Jawala Shahapur, Taluka Chandur Bazar, District Amravati has challenged the orders dated 24.03.2023 and 30.09.2024 passed by the Additional Collector and the Additional Commissioner respectively disqualifying her as Member and Sarpanch of Gram Panchayat for alleged encroachment on the Government land by resorting to the provisions under Section 14(1) (j-3) of the Maharashtra Village Panchayats Act, 1959 (for short 'the Act of 1959').

3. The learned counsel for the petitioner submitted that the petitioner has not at all made any encroachment on the Government land and the inferences drawn by the Authorities are based on the alleged encroachment by the father-in-law of the petitioner, who is residing separately from the petitioner's family. He submitted that the petitioner and her family is residing separately from her father-in-law since 2012 and she has pointed out the said fact in the reply filed before the Additional Collector supported by documents however, by ignoring the categorical submissions, wrong inferences are drawn. He submitted that there is no conclusive material to show any encroachment committed by the petitioner or her husband on any Government land and the impugned orders disqualifying her are absolutely unsustainable in law.

4. Opposing the petition, the learned Assistant Government Pleader for the respondent nos.1 and 2 submitted that the father-in-law of the petitioner had committed encroachment on the Government land since 1986-87 and even though the petitioner and her family is residing separately from her father-in-law since 2012, the fact that the petitioner has taken advantage of the said encroachment till 2012 is sufficient to disqualify her. It is also submitted that the father-in-law of the petitioner alongwith other villagers have also filed separate suit bearing Regular Civil Suit No.12 of 2018 seeking permanent injunction with respect to the encroached portion of land. It is thus submitted that the petitioner has incurred disqualification under Section 14(1)(j-3) of the Act of 1959 and the impugned orders need no interference.

5. While considering the controversy involved, it has to be seen as to whether the petitioner or her husband has committed any encroachment on the Government land so as to attract disqualification under Section 14(1)(j-3) of the Act of 1959. As regards the encroachment allegedly committed by the petitioner on land bearing Survey No.311, the record reveals that the father-in-law of the petitioner and certain other persons have allegedly made some encroachment on the land and they are cultivating the same. However, the record also reveals that the petitioner and her family is residing separately from her father-in-law since 2012 and this fact was pointed out by her in the reply filed before the Additional Collector wherein it was categorically stated that the petitioner alongwith her husband and two children are residing separately from her father-in-law in the property bearing House no.467 situated at Ward no.3 of Village Panchayat Jawala Shahapur. So also, this fact was reflected from the ration card and SECC Draft list which were filed on record before the Additional Collector. Pertinent to note, the copy of Form-8 (extract of tax assessment list) with respect to House No.467 is filed on record which shows only the names of the petitioner and her husband. On a perusal of the copy of the ration card produced on record, it is clear that the name of the petitioner, her husband and two children are shown as a separate family. From the copy of the SECC Draft list, it is clear that the names of the petitioner and her husband are shown independently from her father-in-law. It is crucial to note that there is no dispute about these documents showing the petitioner's residence being

separate from her father-in-law. It has to be noted that despite these documents being produced on record, the Additional Collector has inferred that the petitioner had taken advantage of the encroachment committed by her father-in-law till 2012 and therefore has incurred disqualification. It has to be noted that the elections of the Gram Panchayat were held in the year 2021 and there is nothing on record to establish that the petitioner or her husband have committed encroachment after being elected as Member or Sarpanch of the village panchayat. Apart from this, in the wake of above mentioned documents showing the petitioner's residence separate from her father-in-law, nothing can be conclusively inferred to prove encroachment being committed by the petitioner.

6. The learned Assistant Government Pleader for the respondent nos.1 and 2 has relied on the judgment of the Hon'ble Supreme Court in ***Janabai Vs. Additional Commissioner & Others*** [(2018) 18 SCC 196] and submitted that the encroachment committed by the petitioner's father-in-law was sufficient to disqualify her. The position of law in this judgment is not disputed, however, in the instant case, there is no material to conclusively show that the petitioner or her family member has committed encroachment after the petitioner was elected as a Member/Sarpanch. Apart from this, the documents of Form-8 and Ration Card referred above clearly show that the petitioner is residing separately from her father-in-law. As such, the judgment in ***Janabai*** (supra) is not of any assistance to the respondents.

7. The petitioner, who is a democratically elected Sarpanch, is removed from her post on the basis of alleged encroachment by her father-in-law on the Government land. There is no material to conclude that the petitioner has committed encroachment on the Government land. As such, the impugned orders are unsustainable and needs interference of this Court.

8. In view of above, the writ petition is allowed. The orders dated 24.03.2023 and 30.09.2024 passed by the Additional Collector and the Additional Commissioner respectively are quashed and set aside. Rule is made absolute in aforesaid terms with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)