



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

WRIT PETITION NO. 7341/2024

Sau. Indirabai Ashok Wankhade,
Aged about 52 years, Occ. Member/Sarpanch,
Gram Panchayat, Karajgaon,
R/o. Karajgaon, Tq. Chandur Bazar,
District Amravati

.... PETITIONER(S)

// VERSUS //

- (1) **Additional Commissioner,**
Amravati Division,
Tq. & District Amravati
- (2) **Additional Collector,**
Amravati Division, Amravati
Tq. & District Amravati
- (3) **Gram Panchayat,**
Karajgaon, Through its Secretary,
Office at Karajgaon,
Tq. Chandur Bazar, District Amravati
- (4) **Roshan S/o Rangraoji Maldhure,**
Aged about 42 years, Occ. Agriculturist,
R/o. Karajgaon, Tq. Chandur Bazar,
District Amravati

.... RESPONDENT(S)

Shri J.B. Kasat, Advocate for the Petitioner(s)
Shri S. Joshi, AGP for the Respondent/State
Shri N.A. Gawande, Advocate for the Respondent No. 4 thru V.C.

CORAM : M.S. JAWALKAR, J.
APRIL 17, 2025

ORAL JUDGMENT :-

. **RULE.** Rule made returnable forthwith. Heard finally by consent of learned Counsel for the respective parties.

(2) It appears that the Respondent No. 4 filed an Application under Section 16(2) of the Maharashtra Village Panchayats Act, 1959 (hereinafter referred to as “the Act of 1959”) before the learned Additional Collector, Amravati for disqualifying the Petitioner herein under Section 14(1)(j-3) of the Act of 1959. The Petitioner herein filed reply to the said Application. However, the learned Additional Collector passed an order dated 13/07/2023 thereby allowing the Application of the Respondent No. 4. Being aggrieved by the same, the Petitioner preferred an Appeal before the learned Additional Commissioner, Amravati. The learned Additional Commissioner, Amravati, vide order dated 28/02/2024, partly allowed the Appeal of the Petitioner and set aside the order dated 13/07/2023 passed by the learned

Additional Collector and the matter was referred back to the Additional Collector, Amravati for fresh enquiry as discussed below 'विश्लेषण'. Though it is specifically observed by the learned Additional Commissioner that the house which is constructed on the land is purchased by Indira Ashok Wankhede and her husband Ashok Wankhede in their joint name by the Registered Sale-Deed, therefore, it is clear that it is a private land. There is no Suit filed against the said Registered Sale-Deed. So also, there is no evidence on record to show that the said land was Government land or public land. The Secretary, in his report dated 04/05/2023, made it clear that there is no evidence with the Gram Panchayat that the land belongs to the Government. Therefore, it does not appear that there is any encroachment by the Appellant therein.

(3) In view of this finding and the conclusion by the learned Additional Commissioner, Amravati, the learned Additional Collector was directed to procure first whether the land is a private land or a Government land from the Competent Authority, and thereafter, to proceed with the enquiry. It appears

that the order dated 13/07/2022 passed by the learned Additional Collector is set aside. As such, it was incumbent on the learned Additional Collector to carry out the fresh measurement after obtaining the status of the land from the Competent Authority. However, it appears that no fresh measurement is carried out by the learned Additional Collector.

(4) On the contrary, it appears from the inspection report that it is mentioned therein that the learned Additional Collector along with Deputy Superintendent of Land Records were present on the spot and it is specifically mentioned that “सदर प्रकरणी यापुर्वीच या कार्यालयाकडील मोजणी रजिस्टर क्रमांक ३०६३/नियमित हद्द कायम मोजणी केली असुन त्यावर मोजणी खुलासा दिलेला आहे”. Thus, on the basis of the earlier measurement, the learned Additional Collector obtained report from the Deputy Superintendent of Land Records, Chandur Bazar. As such, there is no fresh measurement carried out to ascertain the exact position of the plot purchased by the Petitioner.

(5) It is an admitted position that the said house was constructed on the said land in the year 2004 under the Pradhan Mantri Awas Yojana and since then, there was no Complaint or any Suit filed against the said Sale-Deed of the plot or the construction of the house.

(6) Learned Counsel for the Petitioner submitted that the Respondent No. 4 preferred a Writ Petition before this Court bearing Writ Petition No. 1843/2024, which came to be disposed of by judgment dated 15/03/2024 with a direction to the Additional Collector to decide the Case No. Sec-14(1)(J-3)/Karajgaon-17/2022-23 within a period of three months from the date of receipt of the order. Thereafter, on 25/06/2024, the Respondent No. 2 – Additional Collector hold the enquiry in which he sought the inspection report from the Deputy Superintendent of Land Records, Chandur Bazar. Accordingly, DSLR hold the spot inspection/enquiry and without carrying out the afresh exercise of measurements and demarcation and merely relying upon the earlier measurements, submitted perverse enquiry report recording that the husband of

the Petitioner is having his possession on Gat No. 16 and as per the 7/12 Extract of Gut No. 16, the entry is 'New Gaothan' and ownership of the Sub-Divisional Officer, Achalpur is in existence and based on the said enquiry report, the Additional Collector, by the order dated 09/07/2024, allowed the Application/Complaint of the Respondent No. 4 and disqualified the Petitioner as Member, Village Panchayat, Karajgaon. Being aggrieved by the same, the Petitioner preferred an Appeal before the Additional Commissioner and the Additional Commissioner, by the order dated 29/11/2024, without recording any reason, confirmed the findings of the Additional Collector and rejected the Appeal of the Petitioner. The said orders of the Additional Commissioner and the Additional Collector are subject matter of challenge in this Writ Petition.

(7) Learned Additional Commissioner, in its finding, observed that the Deputy Superintendent of Land Records, Chandur Bazar gave certificate on 28/07/2023, whereby it was informed that the Plot Nos. 16 and 17 were amalgamated. However, the said sheet of amalgamation is in fragile & delicate condition. Therefore, it

would not be possible to provide copy of the same. In view thereof, the learned Additional Commissioner directed to conduct fresh enquiry after ascertaining whether the land is a Government land or the private land, whereupon the house is constructed by the Petitioner along with her husband. In the Appeal before the learned Additional Commissioner also, he failed to appreciate the fact that there was no fresh measurement carried out by the Additional Collector and on the basis of the earlier measurement, the impugned order came to be passed.

(8) Learned Counsel for the Petitioner, in support of his contentions, relied on **Manisha Ravindra Panpatil Vs. The State of Maharashtra and ors. In Civil Appeal No.10913 of 2024 arising out of SLP (C) No.15073/2024**, wherein it is held as under:-

“5. This seems to us a classic case where the residents of the village could not reconcile with the fact that the appellant, being a woman, was nevertheless elected to the office of the Sarpanch of their village. They were perhaps further unable to come to terms with the reality that a female

Sarpanch would make decisions on their behalf de jure and that they would have to abide by her directions.

6. It is patently obvious that these were the primary motivations which led the private respondents to initiate their orchestrated efforts towards the removal of the appellant, from her duly elected position. Having found no instance of professional misconduct on the part of the appellant that they could etch away at, the private mission to cast on a respondents instead embarked aspersions upon the appellant, by any means necessary. This initiative was undertaken by them, with the intention of securing her removal from public office.

7. Though the private respondents grasped at straws in their bid to evict the appellant from her position, their cause was perhaps aided by the mechanical and summary at various orders passed by government authorities, levels. These orders were passed in a lackadaisical manner, without making any effort towards conducting a fact-finding exercise, so as to confirm whether the allegations levied by the private respondents were sufficiently made out. There is nothing on record to suggest that any objection of the appellant's family having encroached upon government land was ever raised when she filed her nomination papers.

8. At this juncture, we would like to note that the vagaries of the present factual matrix is far from unique and is unfortunately somewhat of a norm. While there is no doubt in our mind that the private respondents may have operated in a discriminatory manner, what is more worrying is the casual approach adopted by government authorities in summarily removing an elected representative. This is all the more concerning when the representative in question is a woman and elected in the reservation quota, thereby indicating a systemic pattern of prejudicial treatment, permeating through all levels of administrative functioning.

9. This scenario gets further exacerbated when we as a country are attempting realize the progressive goal of gender parity and women empowerment across all spheres, including public offices and most importantly adequate women representative in the elected bodies, such instances at the grass-root level cast a heavy shadow on any headway that we may have achieved.”

(9) As held by the Hon’ble Apex Court, the matter of removal of an elected public representative should not be treated so lightly, especially when if concerned women belonging to rural areas. It must be acknowledged that these women who succeed in

occupying such public offices, do so only after significant struggle. The Hon'ble Apex Court further observes that the concerned authorities need to be sanitized themselves and work towards creating a more congenial atmosphere where women, such as the Appellant therein, can prove their worth by rendering their services as Sarpanch of the Gram Panchayat.

(10) In view of the above, in my considered view, both the orders passed by the learned Additional Commissioner as well as the learned Additional Collector are liable to be quashed and set aside for want of sufficient evidence to prove that the Petitioner encroached upon any Government land.

(11) Hence, I proceed to pass following order:-

ORDER

(a) The Writ Petition is **allowed**.

(b) The order dated 29/11/2024 passed by the Respondent No. 1 - Additional Commissioner, Amravati in

Appeal No. 25/BPV16(2)/Karajgaon, Dist. Amravati/2024 and the order dated 09/07/2024 passed by the Respondent No. 2 - Additional Collector, Amravati in Gram Panchayat Case No. Sec-14(1)(J-3)/Karajgaon-17/2022-23 are hereby quashed and set aside.

(c) The matter is remitted back to the learned Additional Collector, Amravati to carry out the measurement afresh and then proceed with the matter.

(d) In view of the setting aside of the orders of the learned Additional Commissioner and the learned Additional Collector, the Petitioner be restored to her original position till the enquiry is concluded by the learned Additional Collector, Amravati.

(e) The parties shall appear before the learned Additional Collector, Amravati on 02/05/2025.

(f) The learned Additional Collector, Amravati is hereby directed to dispose of the enquiry and the complaint

within a period of two months from the date of appearance of the parties.

The Petition stands **disposed of** in the above terms.
Pending Application(s), if any, stand(s) **disposed of**.

(M.S. JAWALKAR, J.)