



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

WRIT PETITION NO. 2676 OF 2025

Sainath Kashinath Kodape, Aged 42 yrs, Occ: Agriculturist,
R/o Wamanpalli, Tq. Gondpipari, District Chandrapur.

PETITIONER

VERSUS

1. Dhananjay Maroti Lokhande, Age 33 years, Occ:
Agriculturist, R/o Lathi, Tq.Gondpipri, Dist. Chandrapur.
2. Additional Commissioner, Nagpur Division, Nagpur,
Tq. & Dist. Nagpur.
3. The Collector, Chandrapur, Tq. & Dist. Chandrapur.

RESPONDENTS

Shri D.Y. Chatap, counsel for the petitioner.
None for the respondent no.1, though served.
Smt.M.S. Naik, Assistant Government Pleader for the respondent nos.2 and 3.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : DECEMBER 11, 2025

ORAL JUDGMENT

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

2. The petitioner-Sarpanch of Gram Panchayat Lathi has assailed the orders passed by the Additional Collector as well as Additional Commissioner dated 01.04.2022 and 31.01.2025 respectively disqualifying him as Member of the Gram Panchayat under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act, 1958.

3. The impugned orders of disqualification of the petitioner are passed by the Authorities in the wake of reports about encroachment committed by the petitioner on Government land as referred in the impugned orders.

4. The learned counsel for the petitioner submitted that there are no encroachments committed by the petitioner after he was elected as Member of the Gram Panchayat and he was not served with any notice with respect to the spot inspection conducted by the Authorities about alleged encroachment. He submitted that the alleged encroachment on the Government land is already a subject matter of appeal under Section 15 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (for short, 'the Act of 2006') and till the appeal is finally decided, nothing can be concluded about any encroachment by the petitioner. He also submitted that the Department of Forest has not issued any notice for eviction for alleged encroachment on Government Forest land bearing Survey no.89 to the petitioner and as such inferences about encroachment by the petitioner are baseless.

5. As against this, the learned Assistant Government Pleader for the respondent nos.2 and 3 submitted that after the petitioner committed encroachment on Government land bearing Survey no.89 of Mouza Wamanpalli, he submitted an application for its regularization before the Forest Rights Committee and his application was rejected by order dated 28.07.2010. Even after rejection of his application, the petitioner has maintained his encroachment on the said Government land and in view of the report dated 15.03.2021 submitted by Tahsildar, Gondpipri, it was revealed that he has maintained that encroachment even in the year 2020-21 and has taken crops of Cotton and Tur. She therefore submitted that since the encroachment committed by the petitioner on the Government

land is never disputed by him and on the contrary he has filed an appeal seeking regularization of the same, the contention that he was not served with any notice at the time of spot inspection, is without any basis. She submitted that the Authorities have passed the orders disqualifying the petitioner on the basis of ample evidence demonstrating encroachment by the petitioner and therefore the impugned orders need no interference.

6. While considering the controversy, it has to be seen that the petitioner has himself raised grounds in the petition that forest Department has not issued any notice of eviction to the petitioner for removal of alleged encroachment on Government land bearing Survey no.89 and hence there is no encroachment. The petitioner has also categorically stated that the appeal filed under Section 15 of the Act of 2006 seeking regularization of the encroachment is also pending. Apart from this, even the report submitted by the Tahsildar, Gondpipri dated 15.03.2021 records the fact that the petitioner has committed encroachment and is cultivating the land for taking crops. In the wake of these factual aspects, the Authorities below have rightly inferred that the petitioner has committed encroachment on the Government land and has incurred disqualification under Section 14(1)(j-3) of the Act of 1958. Although the counsel for the petitioner has relied upon the judgment of this Court in ***Writ Petition No.8618 of 2018 [Lalita Dilip Khandalkar Versus The Additional Commissioner, Amravati & Others]*** dated 22.03.2019 and submitted that the petitioner was not served with notice at the time of spot inspection, the same is not of any assistance to the petitioner as the encroachment is

otherwise clear, in view of the appeal under Section 15 of the Act of 2006 filed by the petitioner.

7. On perusal of the impugned orders passed by the Authorities, it appears that the Authorities have duly considered the relevant factual and legal aspects. No perversity is seen with the impugned orders and hence, no indulgence under Article 227 of the Constitution of India is warranted with the impugned orders. The writ petition is accordingly dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)