

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.15579 OF 2025

Avinash Jagdish Gavit,
Age-33 years, Occ. Sarpanch,
R/o- Khandbara,
Tq. Navapur, Dist. Nandurbar.

..Petitioner

Versus

1. The State of Maharashtra
Through Principal Secretary,
Rural Development Department,
Mantralaya, Madam Kama Road,
Mumbai.
2. The Additional Commissioner,
Nashik, Division Nashik.
3. The Collector, Nandurbar,
Tq. & Dist. Nandurbar.
4. The Chief Executive Officer,
Zillah Parishad Nandurbar,
Tq. & Dist. Nandurbar.
5. Sub-Divisional Engineer,
PWD Zillah Parishad Nandurbar,
Tq. & Dist. Nandurbar.
6. Village Development Officer,
Grampanchayat Khandbara,
Tq.Navapur, Dist.Nandurbar,
7. Kailash Shankar Gavit,
Grampanchayat Khandbara,
Tq.Navapur, Dist. Nandurbar.

..Respondents

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Mr. VD. Salunke i/b Mr. D.A. Madake, Advocate for Petitioner

Mr. K.B. Jadhavar, AGP for Respondent/State.

Mr. PR. Katneshwarkar, Senior Advocate i/b Mr. D.S. Bagul, Advocate
for Respondent No.7.

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CORAM : S. G. CHAPALGAONKAR, J.

DATED : FEBRUARY 09, 2026

JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally with consent of parties.
2. Present writ petition takes exception to judgment and order dated 15.12.2025 passed by Additional Commissioner, Nashik in Grampanchayat Appeal No.148 of 2025, thereby upholding judgment and order dated 10.10.2025 passed by District Collector, Nandurbar in Grampanchayat Dispute No.3/2025 and 4/2025.
3. The petitioner came to be directly elected from S.T. Category as Sarpanch of Grampanchayat, Khandbara, Taluka Navapur, District, Nandurbar. The dispute seeking his disqualification under Section 14 (1) (J-3) of Maharashtra Village Panchayat Act, was raised in Grampanchayat Dispute No.3/2025 and 4/2025. On complaint filed by respondent no.7. The District Collector declared that petitioner to be disqualified. The aggrieved petitioner filed appeal before Additional Commissioner, who dismissed appeal upholding order of disqualification. Hence, this writ petition.
4. Mr. V.D. Salunke, learning advocate appearing for petitioner would submit that order of disqualification is passed on the basis of report submitted by B.D.O. Panchayat Samiti, Nandurbar, alleging that petitioner and his family members unauthorizedly encroached upon property belonging to Panchayat Samiti. The petitioner was not given sufficient opportunity to defend his interest.

Mr. Salunke would further submit that petitioner's grandfather was in service as Gramsevak. He was allotted office quarters constructed over government land, Gat No.4, Sarvodaya Colony. After death of grandfather, petitioner's father Jagdish Rama Gavit continued to reside on rent. In this backdrop, it cannot be said that petitioner's father encroached upon government land. Mr. Salunke would further submit that, petitioner was residing separately in House No.703 and 704, which is their private property. Petitioner has neither encroached upon government land nor is he enjoying encroached property as alleged. In support of his contention, he relies upon observations of Hon'ble Supreme Court in case of *Manisha Ravindra Panpatil Vs. State of Maharashtra and Others* reported in *2024 SCC Online SC 2690* and observations of this Court in case of *Sunil Dinkar Jagdale Vs. State of Maharashtra* reported in *AIR Online 2020 Bom 3041*.

5. Per contra, Mr. Kathneshwarkar, learned senior advocate, appearing for respondent no.7 vehemently submitted that petitioner could not place on record any document to show that his grandfather was allotted government quarters or his father is paying rent for occupation of said property. The petitioner was served with notice to remove encroachment. The learned District Collector as well as Additional Commissioner concurrently observed that petitioner's nomination form itself depicts his address as Sarvodaya Colony, Khandbara. The copy of ration card is also placed on record wherein

name of petitioner's father and his family members are included. All of them are shown residents of Sarvodaya Colony, Khandbara. The petitioner could not rebut aforesaid evidences. Hence, by applying principle of preponderance of probability, concurrent findings recorded by concerned authorities need not be disturbed. In support of his contention, he relies upon observations of Hon'ble Supreme Court of India in case of *Janabai Vs. Additional Commissioner and others* reported in *(2018) 18 SCC 196* and observations of this Court in case of Sonali Gajanan Dhepe and another Vs. The Additional Divisional Commissioner and others in Writ Petition No.4758 of 2022 decided on 21.02.2023.

6. Having considered submissions advanced by learned advocates appearing for respective parties, undisputedly, the petitioner has been directly elected as Sarpanch of Grampanchayat, Khandbara for the period from 2022 to 2027. Respondent no.7 filed grampanchayat dispute alleging petitioner's disqualification in terms of Section 14 (1) (J-3) of Maharashtra Village Panchayat Act. In short, it is alleged that petitioner's family is residing in house constructed over government property, which is part of Sarvodaya Colony, Gat No.4. It is not in dispute that Grampanchayat Property No.460 and 461 is shown in possession and occupation of Jagdish Rama Gavit i.e. father of petitioner. Petitioner in his reply took two fold defence. Firstly, he contends that his grandfather was allotted

government quarters, his father continued in the same property by paying rent for the same. Secondly, he contend that since last 6 years, petitioner is separately residing along with his grandmother in their private property i.e. House No.703 and 704.

7. Apparently, the aforesaid defence would show that there is no denial on part of petitioner that his father is occupying property bearing no.460 and 461 which is part of Gat No.4 at Village Khandbara. It is also not in dispute that said property was in use for residential purpose of employees on establishment of Zilla Parishad and Panchayat Samiti during period from 1962 to 1972. There is no dispute that recently, some construction has been raised by persons in occupation of property and they are enjoying the possession. In light of aforesaid admitted facts and defence put-forth by petitioner, it is to be ascertained “whether occupation of petitioner's father over government property is legal”, and secondly, “whether petitioner is beneficiary of area in occupation of his father”.

8. The inquiry report submitted by B.D.O., Panchayat Samiti, Nandurbar, depicts that persons who are occupying government property, in Gat No.4 are unauthorized occupiers and they have raised construction on their expenses. Petitioner's father has also raised unauthorized construction and unauthorizedly occupied Property No.460 and 461. The petitioner has not filed on record any document to show that his grandfather was legally put into possession

of said property, or his father continued authorized possession. Although petitioner contended in his reply that his father is paying rent or construction is made by Zilla Parishad, the same is not supported by iota of evidence.

9. In light of aforesaid factual position, concurrent findings recorded by District Collector and Additional Commissioner that occupation of petitioner's father is unauthorized, and further construction of house is encroachment on government land cannot be faulted.

10. The second limb of petitioner's contention that he is not residing in government property along with his father since last 5 to 6 years, however, learned District Collector has rightly relied upon contents of nomination form submitted by petitioner, wherein he has specifically shown his residence address as "Sarvodaya Colony, Khandbara" i.e. government land. Apart from that, a copy of ration card in the name of petitioner's father shows that petitioner is one of the family member residing at Sarvodaya Colony. It is therefore evident that petitioner continued to occupy and enjoy the encroached property along with his family members.

11. This Court, in case of ***Raju Mansaram Pawar and Another Vs. Additional Divisional Commissioner and others*** reported in ***2020 (3), Mh.L.J. 110*** relying upon observations of Division Bench of this Court in case of ***Devidas Matiramji Surwade Vs. Additional***

Commissioner, Amravati and others reported in *2012, B.C.I. (soft) 944* observed that word “person” referred in section 14(1) would include legal heirs of encroacher who continue to occupy the government land or government property. As such, if a person continues to remain in occupation of the encroached property and has a conflict of interest, the interpretation that the first encroacher or encroachment made by a person alone would suffer disqualification, would lead to an absurdity.

12. The concept of purposive interpretation of the provisions of the law would constrain the Court to hold that if a person shares the encroached property and continues to enjoy the encroached property, the disqualification would also cover such person. The aforesaid analogy has been approved by Hon’ble Supreme Court of India in case of *Janabai (supra)*, wherein it is observed that word "person" as used in Section 14(1)(J-3) is not to be so narrowly construed as a consequence of which the basic issue of "encroachment" in the context of disqualification becomes absolutely redundant. It is however observed that the concept of purposive interpretation would impel us to hold that when a person shares an encroached property by residing there and there is continuance, he/she has to be treated as disqualified. Recently, in case of *Sonali Gajanan Dhepe (Supra)*, this Court elaborately considered law laid

down by the Hon'ble Supreme Court of India in case of Janabai (supra) and finally observed as under :

“19. This being the majority opinion, we have focussed on the same. The two-Judge Bench in Sagar Pandurang Dhundare’s case has distinguished the said decision by holding thus: (SCC p.351, para 12)

“12. Abhiram Singh v. C.D. Commachen (D) By Lrs. is a recent Constitution Bench judgment of this Court dealing with corrupt practices. Appeal on the grounds of religion, race, caste, community, language, etc. of the candidates and the electorate, and canvassing votes accordingly, has been held to be a corrupt practice. The Court, to hold so, adopted a purposive interpretative process declaring that the Representation of the People Act, 1951 should be interpreted in that context to be electorate centric rather than candidate centric. That is not the situation in the present case. The appellants were elected by the people to the Panchayat. There is no case that they are original encroachers on the public property. And this is not the case where the alleged act of encroachment has influenced the will of the people in which case, going by Abhiram Singh (supra), the court would have been justified in attempting a purposive interpretation to achieve a laudable object.”

13. In light of aforesaid exposition of law and factual backdrop of case in hand, this Court finds that petitioner along with his father resided in Property No.460 and 461 situated at Sarvodaya Colony, Gat No.4, which is government property and as such, incurred disqualification in terms of Section 14 (1) (J-3).

14. In result, no case is made out to cause interference in impugned order. Hence, writ petition stands rejected.

15. Rule is discharged.

(S.G. CHAPALGAONKAR, J.)