



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.1248 OF 2026**

Vidya Ramesh Kamble,
Age: 30 Years, Occu: Household & the Sarpanch,
of Village Panchayat Lendegaon,
R/o. Lendegaon, Tq. Ahmedpur, Dist. Latur. ..Petitioner

Versus

1. Gautam Govind Lendegaonkar (Kamble),
Age: Major, Occ. Agricuture,
r/o. Lendegaon, Tq. Ahmedpur, Dist. Latur.
2. The Village Development Officer,
Village Panchayat Lendegaon,
Tq. Ahmedpur. Dist. Latur.
3. The District Collector,
Latur, Dist. Latur.
4. The Additional Divisional Commissioner-1,
Chhatrapati Sambhajinagar. ..Respondents

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Mr. V. A. Bagal, Advocate for Petitioner.
Mr. A. V. Indrale Patil h/f Mr. S. B. Madde, Advocates for
Respondent No.1.
Mr. V. M. Lomte, AGP for Respondent-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 03rd FEBRUARY, 2026.**

JUDGMENT:-

1. Rule. Rule made returnable forthwith. By consent of parties, matter is taken up for final hearing at the admission stage.
2. The petitioner impugns order dated 22.01.2026 passed by Additional Divisional Commissioner, Chhatrapati Sambhajinagar in Appeal No.60/2025, thereby upholding order dated 16.09.2025 passed by District Collector, Latur in Case No.2023/GPN/CR-09, by which petitioner has been declared disqualified to continue as

member/Sarpanch of Village Panchayat Lendegaon, Taluka Ahmedpur, District Latur.

3. The petitioner has been elected as Member of Village Panchayat. He has been further elected as Sarpanch on reserved post for SC (Women). The respondent no.1 raised dispute attributing disqualification of petitioner under Section 14(1)(J-3) of Maharashtra Village Panchayat Act (for short 'MVP Act') on ground that Grampanchayat House No.29 has been constructed on Government land and same has been possessed and utilized by petitioner's family. Eventually, District Collector called report from Deputy Superintendent of Land Record. He submitted report of measurement dated 07.04.2025 stating that Grampanchayat House No.29 is situated on Gairan land, which is part of Gut No.46. The petitioner's father-in-law was served with notice dated 13.12.2022 for removal of encroachment. However, encroachment still subsists.

4. The petitioner filed reply contending that she was not served with notice of measurement. The house in question is in name of petitioner's father-in-law and she is residing in private property after partition in family. The District Collector after considering rival contentions observed that report of measurement submitted by Deputy Superintendent of Land Record clearly depicts that Grampanchayat House No.29/2 stands in name of petitioner's

husband namely Ramesh Sambhaji Kamble and same is situated in Gut No.46, which is Gairan land. Eventually, order of disqualification came to be passed. The petitioner preferred Appeal before Additional Divisional Commissioner, Chhatrapati Sambhajnagar, who upheld order of disqualification as passed by District Collector. It has been observed that land Gut No.46 is Gairan land. The Grampanchayat Namuna No.8 depicts that Grampanchayat House No.29 is in name of petitioner's family and same is part and parcel of Gairan land.

5. Mr. Bagal, learned Advocates appearing for petitioner vehemently submits that panchanama dated 27.01.2025 was carried behind back of petitioner. The report of measurement submitted by Deputy Superintendent of Land Record is based on measurement caused without notice to petitioner. Apart from that, property was allotted by Grampanchayat to landless persons. Accordingly, petitioner's father-in-law had made construction of Grampanchayat House No.29/2. Although name of petitioner's husband is shown in 8-A extract, petitioner's husband had tendered an application to remove his name from record, since on family partition, he started residing in private property. Mr. Bagal relies upon observations of this Court in case of *Sau. Lalita Dilip Khandalkar Vs. Additional Commissioner, Amravati & Ors.*¹ to contend that if order is passed on the basis of inspection and

¹ 2019 (6) ALL MR 261.

measurement of land, which is carried out in absence of member, order of disqualification would not sustained in law.

6. Per contra, Mr. Indrale Patil, learned Advocate holding for Mr. Madde, learned Advocate appearing for petitioner and Mr. Lomte, learned AGP appearing for respondent-State supports impugned order.

7. Having considered submissions advanced by learned Advocates appearing for respective parties and on perusal of record tendered into service, it can be observed that dispute pertains to house, which has been constructed in Gut No.46 within limits of Grampanchayat. It is not in dispute that Grampanchayat House No.29 stands in name of Ramesh Sambhaji Kamble and Vilas Sambhaji Kamble i.e. husband and brother-in-law of petitioner. It is not in dispute that Grampanchayat 8A extract shows that Grampanchayat House No.29 is part of Government land. It is not case of petitioner that house is constructed on private land or petitioner's family members have title over land in question. The petitioner's husband tendered an application dated 20.07.2020 to Grampanchayat to remove his name from record of Grampanchayat House No.29/2 stating that in year 1986-87 plot from Gut No.46 was allotted by Grampanchayat in name of his father i.e. Sambhaji Girjappa Kamble. Accordingly, his name and name of his brother Vilas has been incorporated in Grampanchayat

record. There was partition between him and his brother and he is residing in House No.170 alongwith his wife and family members. Accordingly, request was made to remove his name from record of Grampanchayat House No.29/2 and enter against House No.170. The contents of aforesaid application clearly speaks that Grampanchayat House No.29/2 is part of Government land. The measurement report submitted by Deputy Superintendent of Land Record depicts that construction of Grampanchayat House No.29/2 stands in Government Gairan land.

8. The aforesaid factual aspects clearly shows that there cannot be dispute that Grampanchayat House No.29/2 is part of Government Gairan land, which stands in name of petitioner's husband and his brother. Merely, because petitioner's husband submitted an application to remove his name from record while continuing name of his brother, would not be sufficient to hold that petitioner is unconcerned with encroachment on Government land.

9. Pertinently, petitioner could not produce any record to show that she is residing in House No.170 or there was partition between her husband and his brother, whereby Grampanchayat House No.29/2 stood transferred exclusively in name of her brother-in-law. In wake of aforesaid facts, even it is assumed that panchanama or measurement was without notice to petitioner, that would be inconsequential. Once it is admitted that construction of

Grampanchayat House No.29/2 is itself on Government land and there is no document to show valid allotment or authorization to use by Competent Authority, it has to be taken that construction of Grampanchayat House No.29/2 is on Government property. The petitioner and her family members are beneficiaries of encroachment.

10. In light of aforesaid factual aspects, it is apposite to refer to observations of Supreme Court in case of ***Janabai Vs. Additional Commissioner and others***², which reads thus :

“30. We may note here with profit that the 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. The legislative intendment, as we perceive, is that encroachment or unauthorized occupation has to be viewed very strictly and Section 53, therefore, provides for imposition of daily fine. It is also to be borne in mind that it is the Panchayat that has been conferred with the power to remove the encroachment. It is the statutory obligation on the part of the Panchayat to protect the interest of the properties belonging to it. If a member remains in occupation of an encroached property, he/she has a conflict of interest. If an interpretation is placed that it is the first encroacher or the encroachment made by the person alone who would suffer a disqualification, it would lead to an absurdity. The concept of purposive 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. Such an interpretation subverts the real warrant of the provision. Thus analysed, we are of the view that the decision in Sagar Pandurang Dhundare does not lay down the correct position of law and it is, accordingly, overruled.”

11. In light of aforesaid exposition of law, although petitioner herself is not encroacher, her husband clearly seen to be in possession of Government property and in absence of contrary evidence, petitioner can be said to be beneficiary of encroachment made by her husband. In result, no case is made out to cause interference in concurrent findings recorded by Authorities disqualifying petitioner from holding post of Member or Sarpanch of Village Panchayat.

12. In result, Writ Petition stands dismissed.

13. Rule stands discharged.

(S. G. CHAPALGAONKAR)
JUDGE