

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 984 OF 2026
WITH
INTERIM APPLICATION NO. 507 OF 2026
IN
WRIT PETITION NO. 984 OF 2026

Azaruddin Balaso Pendhari
VERSUS
The State of Maharashtra
Through Its Ld. Additional Div. Commissioner And Others

...
Mr. Manoj Patil a/w Ms. Kalyani Mangave, Advocate for
Petitioner/Applicant.

Mr. Sanjay D. Rayrikar, AGP for the Respondents-State.

...

CORAM : SACHIN S. DESHMUKH, J.
DATE : 18th APRIL, 2026.

P. C. :

1. The petitioner has raised an exception to order dated 23.09.2025 in Appeal No. Grap/Apeal/Ko/57/2025 rendered by the Additional Divisional Commissioner, Pune Division, Pune/Respondent No.1 dismissing the appeal and endorsing the order dated 28.05.2025 in application No.80 of 2023 rendered by the Collector, Kolhapur/Respondent No.2.

2. The petitioner is a duly elected member of the Grampanchayat, Mudshingi in the year 2022. The Respondent No.4 – Sharad filed a Complaint No.80 of 2023 under Section 14 of the Maharashtra Village Panchayats Act, 1959 (“Act of 1959”) before the District Collector/Respondent No.2 contending that the Petitioner had encroached a Government land and was therefore liable to be disqualified from post.

3. Consequently, the complaint came to be allowed and accordingly, the Petitioner was disqualified from the post. Aggrieved by the same, the Petitioner presented an appeal before Respondent No.1 - Additional Divisional Commissioner, came to be dismissed by the order under challenge. As such the Petitioner is before this Court.

4. Learned counsel for the Petitioner submits that the orders under challenge are unsustainable in law. The Petitioner nor his family members have encroached upon the *gairan* land in question. The complaint is filed with ulterior motive by the Respondent No.4. Hence, prayed to quash and set aside the orders under challenge.

5. Learned AGP for the State and the counsel for the Respondent No.4 have supported the orders under challenge and stated that the

brother of the Petitioner resides on the gairan land. As such, being the family member of the Petitioner, entails his disqualification.

6. To buttress the contention have placed reliance upon the judgment of the Hon'ble Apex Court in the case of **Janabai v. Additional Commissioner and Others (2018) 18 SCC 196**.

7. Having heard the submissions from the respective sides and upon perusal of the record indicates that it is an admitted fact that the land in question is occupied by the brother of the Petitioner. The authorities below have also inspected and prepared a spot panchanama to that effect. Thus, it is a matter of record that the brother of the Petitioner had encroached upon the gairan land.

8. The Hon'ble Apex Court in the case of **Janabai** (supra) has observed as follows :

“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 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 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. Such an interpretation subverts the real warrant of the provision. Thus analysed, we are of the view that the decision in **Sagar Pandurang Dhundare v. Keshav Aaba Patil and others**¹ does not lay down the correct position of law and it is, accordingly, overruled.”

9. In that view of the matter, once the encroachment is established by a person related to the duly elected member of the Gram Panchayat, *vis-a-vis* brother of the Petitioner and having regard to the object of the statutory provisions, the authorities have rightly considered the issue in its letter and spirit.

10. Resultantly, the Petition is devoid of merit and stands dismissed. No order as to costs.

11. In view of the dismissal of the Writ Petition, the pending interim application, if any, also stands disposed of.

[SACHIN S. DESHMUKH, J.]

¹ (2018) 1 SCC 340