



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

WRIT PETITION NO. 5121 OF 2025

Sadhana Dipak Devkar, Aged: 50 years, Occ: Household,
R/o Dhanora, Post Lohgad, Tah. Barshitakli, District Akola.

PETITIONER

VERSUS

1. The Additional Collector, Akola, Dist. Akola.
2. Gat Gram Panchayat Dhanora, Through its
Secretary, Tah. Barshitakli, District Akola.
3. Vitthal Sonaji Jate, Aged 36 years, Occ: Agriculturist,
Agriculturist, R/o Dhotarkhea, Post Kodhali,
Tah. Barshitakli, District Akola - 444405.

RESPONDENTS

Shri R.D. Karode, counsel for the petitioner.
Shri H.R. Dhumale, Assistant Government Pleader for the respondent no.1.
None for the respondent nos.2 and 3, though served.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : APRIL 09, 2026

ORAL JUDGMENT

RULE. Rule made returnable forthwith. Heard finally with consent of the learned counsel for the parties.

2. By this petition, the petitioner has assailed the order dated 04.08.2025 passed by the respondent no.1-Additional Collector, Akola thereby refusing the petitioner permission to conduct cross-examination of the Secretary of Gram Panchayat Dhanora in the proceedings of disqualification initiated against the petitioner.

3. The petitioner was elected as Sarpanch of Gat Gram Panchayat Dhanora, Tahsil Barshitakli, District Akola. The respondent no.3 filed an application under the provisions of Section 14(1)(j-3) of the Maharashtra Village Panchayats Act, 1959 (for short, 'the Act of 1959') seeking disqualification of the petitioner on the ground that she has committed encroachment on the Government land.

4. The petitioner appeared in the proceedings and requested for permission to cross-examine the Secretary of the Gram Panchayat to demonstrate the falsity of the allegations. The permission was granted and accordingly the cross-examination of the Secretary was conducted. However, it was deferred for 28.08.2025. Although the matter was fixed for 28.08.2025, the respondent no.1 passed an order on 04.08.2025 and refused permission for cross-examination and feeling aggrieved by this order, the petitioner has filed the instant petition.

5. The petitioner's primary contention is that the impugned order deprives the petitioner of his valuable right to cross-examine the Secretary of the Gram Panchayat. It is submitted that the cross-examination of the Secretary was infact started and in response to the question posed to him, the cross-examination was deferred to enable the Secretary to check the position from the Gram Panchayat records. It is submitted that although the date for further cross-examination was fixed on 28.08.2025, the respondent no.1 took up the matter on 04.08.2025 and passed the impugned order. It is therefore, submitted that the order passed by the respondent no.1 is arbitrary and perverse and therefore unsustainable in law.

6. Shri H.R. Dhumale, learned Assistant Government Pleader for the respondent no.1 opposed the petition and tried to justify the order. He

relied upon the affidavit dated 05.03.2026 filed by the respondent no.1 in Writ Petition no.5120 of 2025 (which is filed by the Sarpanch against identical order) in which an identical order bearing the same date, i.e. 04.08.2025 passed by the same Officer refusing permission to cross-examine the Secretary of Gram Panchayat, was under challenge.

7. While considering the rival contentions, it has to be seen that undisputedly the matter was fixed for cross-examination of the Secretary of the Gram Panchayat and the assigned date was 28.08.2025. A perusal of the order-sheet of the proceedings which is placed on record shows that on 02.07.2025, the cross-examination of the Secretary of the Gram Panchayat had commenced and in response to a query posed to him, it was deferred to enable the Secretary to check the record and respond to the question. The matter was thereafter listed on 09.07.2025 and it was adjourned for 28.08.2025. Thus, it is clear that the matter was not fixed for 04.08.2025 on which date the impugned order is passed. The impugned order is passed behind the back of the petitioner and it has deprived the petitioner of her valuable right to conduct cross-examination of the Secretary of the Gram Panchayat.

8. In view of this glaring illegality in passing the impugned order, the respondents were called upon to file their affidavit and in response thereto the respondent no.1 has filed his affidavit dated 05.03.2026 in Writ Petition no.5120 of 2025 seeking unconditional apology. The same affidavit is relied in this petition also. Paragraphs 10 to 12 of the aforesaid affidavit are reproduced below:-

“10. That, I most humbly and respectfully state that due to unintentional mistake, a wrong date is mentioned in the impugned order. After considering the record and the say/reply filed by the respondent no.3, I proceeded to pass the impugned order. I sincerely tender my apology for the unintentional mistake occurred in the impugned order. I assure this Hon'ble Court that in future, I will be careful in mentioning the dates and maintaining the record of the proceeding as well.

11 That, I further seek unconditional apology for filing the instant affidavit belatedly. I further assure this Hon'ble Court, that in future, I will be extremely prompt and sincere in filing my affidavits in the Judicial Proceedings.

12. That, I most humbly state that there were no compelling circumstance for passing the impugned order dated 04.08.2025. It is true that the next date of hearing was 28.08.2025, but the impugned order was passed and the same was intimated to the parties on 09.07.2025 itself.”

9. On a perusal of the aforesaid affidavit-in-reply, it becomes clear that there were no compelling circumstances for passing the impugned order on 04.08.2025, although the matter was fixed for 28.08.2025. Pertinent to note, the cross-examination of the Secretary was infact incomplete and there is nothing on record to show that the petitioner or her lawyer were avoiding the proceedings or refusing to conduct the cross-examination. In the backdrop of these circumstances, the impugned order dated 04.08.2025 is grossly illegal and demonstrates blatant misuse of powers by the respondent no.1. The reasons furnished by the respondent no.1 in the aforesaid affidavit cannot justify the patently illegal order. It is not acceptable that the Authority which has fixed the matter for 28.08.2025 would on its own take up the matter on 04.08.2025 for passing the order which is completely adverse to the interest of the party.

10. It is incomprehensible to consider the contention of the respondent no.1 in paragraph 12 of the reply affidavit that the parties were intimated about the impugned order on 09.07.2025 itself. This kind of statement shows that the respondent no.1 has acted irresponsibly in passing the impugned order and also in submitting the affidavit dated 05.03.2026 before this Court. It has to be noted that the respondent no.1, has not even filed any affidavit in this petition, even though it was specifically directed by order dated 08.09.2025, to show any compelling circumstances for passing the impugned order. Instead of filing affidavit in this petition, the respondent no.1 placed reliance on its affidavit dated 05.03.2026 filed in Writ Petition no.5120 of 2025, which is the connected matter. The entire conduct on the part of the respondent no.1 is deprecated and since the respondent no.1 has apparently misused the authority and power, situation warrants imposition of costs on the respondent no.1, to be paid by him from his own pocket.

11. After giving anxious consideration to the above mentioned factual and legal aspects, I am of the firm opinion that the impugned order passed by the respondent no.1 is unsustainable in law and deserves to be quashed and set aside. Hence, the following order is passed:-

- I. The writ petition is allowed.
- II. The order dated 04.08.2025 passed by the respondent no.1 is quashed and set aside and it is directed that the petitioner be permitted to cross-examine the Secretary of the Gram Panchayat.

III. The respondent no.1-Additional Collector, Akola is directed to deposit costs of Rs.10,000/- from his own pocket with the 'Public Welfare Account' bearing Account No.129712010001014 (IFSC Code: UBIN0812978) in the Union Bank of India, Branch High Court, Civil Lines, Nagpur.

12. Rule is made absolute in aforesaid terms with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

APTE