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

WRIT PETITION NO. 6507 OF 2025

Nirupa Jitendra Borkar, Aged 36 years, Occ: Sarpanch, Gram Panchayat, Khambi (Pimpalgaon), R/o Khambi, Tahsil Arjuni Morgaon, District Gondia. **PETITIONER**

VERSUS

1. The State of Maharashtra, Through its Secretary, Department of Mantralaya, Mumbai – 400032.
2. The Divisional Commissioner, Nagpur Division, Nagpur.
3. Collector, Gondia.
4. Sudam Baburao Khotele, Aged 54 years, Occ:Cultivation, R/o Khambi (Pimpalgaon), Tahsil Arjuni Morgaon, District Gondia.
5. Tularam Murlidhar Khotele, Aged 42 years, Occ: Cultivation, R/o Khambi (Pimpalgaon), Tah. Arjuni Morgaon, District Gondia.
6. The Secretary, Gram Panchayat, R/o Khambi (Pimpalgaon), Tah. Arjuni Morgaon, Dist. Gondia.
7. The Talathi, Saza no.11, Pimpalgaon Khambi, having his office at R/o Khambi (Pimpalgaon), Tah. Arjuni Morgaon, District Gondia. **RESPONDENTS**

Shri A.M. Chandekar, counsel for the petitioner.
Shri A.S. Fulzele, Additional Government Pleader for the respondent nos.1 to 3.
Shri A.M. Jaltare, counsel for the respondent nos.4 and 5.

CORAM : PRAFULLA S. KHUBALKAR, J.
DATE : APRIL 15, 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, Sarpanch of Gram Panchayat Khambi (Pimpalgaon) challenges the orders passed by the Collector as well as the Commissioner disqualifying her under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act, 1959 (for short, 'the Act').

3. The petitioner was elected as Sarpanch of Gram Panchayat Khambi (Pimpalgaon), Tahsil Arjuni Morgaon, District Gondia. The respondent nos.4 and 5 filed a complaint on 03.04.2025 seeking disqualification of the petitioner under Section 14(1)(j-3) of the Act on account of encroachment on Government land bearing Gat no.231 and property no.441 as mentioned in the complaint. The petitioner filed her reply dated 07.04.2025 and opposed the complaint contending that she had not committed any encroachment on any land including land Gat no.231. The proceedings were decided by the respondent no.3-Collector, Gondia and by order dated 30.05.2025 the petitioner was held disqualified. The petitioner's challenge before the respondent no.2-Additional Commissioner also failed and resultantly, the petitioner stood disqualified under Section 14(1)(j-3) of the Act. The petitioner has challenged both these orders by way of instant petition.

4. Shri A.M. Chandekar, learned counsel for the petitioner submitted that there is no material to establish the encroachment on land bearing Gat no.231 and the inferences drawn by the authorities on the basis of a receipt about the deposit of penalty of Rs.1,000/- against alleged encroachment on land Gat no.231 are baseless since the petitioner or her husband has never deposited any penalty. He submitted that the petitioner was never served with any notice about encroachment and as such the reliance placed by the authorities on the receipt against deposit of penalty is completely misplaced. As regards the inferences drawn by the authorities about encroachment on property no.441, he submitted that the reliance on Village Form-8 showing encroachment by the petitioner's

husband on Government land is also misplaced since the said document of Village Form-8 was filed on record by the Village Revenue Officer who was not competent to hold the enquiry with respect to disqualification under Section 14(1)(j-3) of the Act.

5. Per contra, Shri A.S. Fulzele, learned Additional Government Pleader for the respondent nos.1 to 3 and Shri A.M. Jaltare, learned counsel for the respondent nos.4 and 5 vehemently opposed the petition. They submitted that the petitioner's husband viz. Jitendra Shamrao Borkar had committed encroachment on property no.441 which is a Government land as reflected from Village Form-8. By inviting attention to the entry of encroachment in the tax assessment register, it is pointed out that the entries are certified and endorsed by the Secretary and the petitioner who was Sarpanch at the relevant time. It is therefore submitted that the encroachment committed by the petitioner and her husband on property no.441 is undisputedly established. As regards encroachment on Government land bearing Gat no.231, it is submitted that in view of 7/12 extract with respect to this property showing name of Government as owner, the encroachment committed by the petitioner is also established.

6. While considering the rival contentions, it has to be noted that the complainants have sought disqualification of the petitioner on account of encroachment committed by the petitioner and her husband on Gat no.231 and property no.441. As regards encroachment on property no.441, the document of Village Form-8 clearly shows encroachment by the petitioner's husband on the said property. Even though the document

of Village Form-8 was placed on record alongwith the enquiry report submitted by the Village Revenue Officer (Talathi), the fact remains that in the Government record the encroachment by the petitioner's husband is recorded. As such, there is no reason to disbelieve Village Form-8 which is not even challenged by the petitioner. As such, although the petitioner has raised several issues about absence of evidence to establish encroachment on Gat no.231, there is sufficient material to establish the encroachment by the petitioner and her husband on property no.441.

7. Although the learned counsel for the petitioner has placed reliance on the judgment of this Court in ***Fulwati Baburao Pawar Versus Additional Commissioner, Amravati Division & others*** [**Writ Petition no.1966 of 2024**], decided on 29.01.2025, it has to be noted that the facts of the said case were different and the inspection report therein did not mention any gat number and in that context this Court had found the inspection report unreliable and directed remand of the matter. In the instant case, the inferences drawn by the authorities about encroachment by the petitioner and her husband on the Government land based on Village Form-8 are not found to be baseless. As such, the judgment in ***Fulwati Baburao Pawar*** (supra) is not of any assistance to the petitioner.

8. A perusal of the orders passed by the respondent nos.2 and 3 reveal that the authorities have given due consideration to the contentions canvassed on behalf of both the parties and by referring to the report of the Village Revenue Officer has inferred that the petitioner and her husband have committed encroachment on Government land.

9. The learned counsel for the petitioner has attacked on the report of the Village Revenue Officer by contending that the said officer is not the competent person to submit any report, as the competent authority is the Superintendent of Land Records. This submission is opposed by the respondents by stating that the said report is not about any measurement of land and as such the report based on scrutiny of record of Gram Panchayat cannot be discarded. Pertinent to note, the report of the Village Revenue Officer is mainly with respect to the property bearing Gat no.231, however apart from this, the inferences about the encroachment on property no.441 can be separately drawn on the basis of Village Form-8 and as such, the petitioner's contentions about the report by the Village Revenue Officer being an incompetent person to conduct enquiry are not acceptable.

10. Having regard to the above mentioned factual and legal aspects, I do not find any perversity with the impugned orders passed by the authorities. On giving anxious consideration to the material on record, I am of the firm opinion that there exists material to show the encroachment committed by the petitioner and her husband on the Government land rendering her disqualified under Section 14(1)(j-3) of the Act. Hence, there is no need to interfere with the impugned orders. The writ petition is dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)

APTE