



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

WRIT PETITION NO. 6560 OF 2025

Onkar Baban Katre, Age: 45 years, Occ: Agriculturist,
R/o Lotwada, Tah. Daryapur, District Amravati.

PETITIONER

VERSUS

1. The Additional Commissioner, Amravati Division,
Amravati, Tahsil and District Amravati.
2. The Additional Collector, Amravati, Tahsil and
District Amravati.
3. The Secretary, Gram Panchayat, Lotwada,
Tahsil Daryapur, District Amravati.
4. Bhimrao Vitthalrao Kurhade, Aged 53 years, Occ:
Agriculturist, R/o Lotwada, Tahsil Daryapur,
District Amravati.

RESPONDENTS

Shri N.A. Gawande, counsel for the petitioner.
Shri S.C. Joshi, Assistant Government Pleader for the respondent nos.1 and 2.
Shri G.R. Bhake, counsel for the respondent no.4.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : FEBRUARY 26, 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-Upa Sarpanch of Gram Panchayat, Lotwadi, Tahsil Daryapur, District Amravati challenges the order passed by the respondent no.1-Additional Commissioner, Amravati Division, Amravati disqualifying the petitioner as Member of Gram Panchayat under Section 14(1)(j-3) of the Maharashtra Village Panchayats Act, 1959 (for short, 'the Act of 1959').

3. The petitioner was elected as Member and Upa-Sarpanch of Gram Panchayat in the year 2022 and on the basis of a complaint made by the respondent no.4, the proceedings were initiated for alleged violation of Section 14(1(j-3) of the Act of 1959 against the petitioner. On the basis of material available before it, the respondent no.2-Additional Collector, Amravati passed order dated 08.05.2025 and rejected the application. The respondent no.4 challenged this order by way of an appeal under Section 16(2) before the respondent no.1-Additional Commissioner which came to be allowed by order dated 10.10.2025 and the petitioner was declared to be disqualified. Feeling aggrieved, the petitioner has filed the instant petition.

4. Shri N.A. Gawande, learned counsel for the petitioner vehemently submitted that the impugned order passed by the Additional Commissioner being passed on the basis of measurement and the spot inspection report conducted by the Secretary of Gram Panchayat is unsustainable since the Secretary of Gram Panchayat has no authority empowering him to carry out measurement and submit any report. He also submitted that the order passed by the Additional Collector is well reasoned and required no interference. He submitted that there is no cogent evidence establishing any encroachment by the petitioner on the government land. In support of his submissions, he relied on the judgment of this Court in ***Meena Atish Mohod Versus Suresh Shankarrao Pawar & Others*** [Writ Petition no.7224 of 2023] and submitted that the inferences drawn by the Additional

Commissioner based on the measurement of land carried out by the Secretary of Gram Panchayat are unsustainable. He also submitted that the respondent no.1-Additional Commissioner entertained the appeal which was filed belatedly without any application for condonation of delay and the appeal deserved to be rejected on that count alone.

5. Opposing the petition, Shri S.C. Joshi, learned Assistant Government Pleader as well as Shri G.R. Bhake, learned counsel for the respondent no.4 submitted that the impugned order is passed on the basis of spot inspection report dated 05.07.2025 which revealed encroachment of about 32 square feet on the government land committed by the petitioner and hence the petitioner was rightly disqualified.

6. The main controversy which falls for consideration is whether the petitioner stood disqualified under Section 14(1)(j-3) of the Act of 1959 for committing encroachment on the government land. By considering material available before it including the report dated 13.01.2024 prepared by the Secretary of Gram Panchayat, the Additional Collector has passed order dated 08.05.2025 rejecting the application for disqualification of the petitioner. The order records that the spot inspection was conducted behind the back of villagers including the petitioner. It appears that subsequent spot inspection was conducted on 05.07.2025 by the Secretary of Gram Panchayat in which it is mentioned that there is encroachment of about 32 square feet on the government land by the petitioner and by completely relying on this report and appeal

under Section 16(2) is decided by the respondent no.1-Additional Commissioner. It is thus clear that the only basis for concluding about petitioner's encroachment on government land is the report of the Secretary of Gram Panchayat.

It is crucial to note that there is no conclusive evidence based on measurement by the Superintendent of Land Records which is the competent authority to carry out measurement and the conclusions are drawn on the basis of report of the Secretary of Gram Panchayat. Considering the position of law as clarified by this Court in ***Meena Atish Mohod*** (supra), the order passed by the Additional Commissioner clearly suffers from legal infirmity. In the said judgment, it is held that the Secretary of Gram Panchayat is not the authority to carry out measurement of land for arriving at an inference about encroachment under Section 14(1)(j-3) of the Act of 1959. Further, it has to be noted that the petitioner was elected as Upa-Sarpanch of the Gram Panchayat and the respondent no.4 has levelled similar allegations against woman Sarpanch of the Gram Panchayat Durga Gawande. Writ Petition No.6557 of 2025 filed by Durga Gawande is decided by this Court by considering the position of law laid down by the Hon'ble Supreme Court in ***Manisha Ravindra Panpatil*** (supra). The democratically elected representative cannot be subjected to severe action of disqualification only on the basis of some spot inspection report conducted by the Secretary of Gram Panchayat. The action of disqualification is drastic and has adverse effect

on the mandate of the public. The standard of proof to substantiate such allegations of encroachment are required to be of a higher degree as clarified by several judgments of this Court. In the instant case, there is no cogent and reliable evidence to establish encroachment on the government land by the petitioner. As such, the impugned order passed by the respondent no.1-Additional Commissioner is unsustainable and the matter therefore needs to be remanded to the respondent no.1-Additional Commissioner for fresh consideration.

7. In view of the above mentioned factual and legal aspects in the interest of justice, it is necessary to grant an opportunity to the petitioner to submit his arguments against entertaining the appeal belatedly and also the submissions about inferences to be drawn on the basis of report of Secretary of Gram Panchayat. Hence, the following order is passed:-

- I. The writ petition is partly allowed.
- II. The order dated 10.10.2025 passed by the respondent no.1-Additional Commissioner, Amravati Division, Amravati is quashed and set aside. The matter is remanded to the respondent no.1-Additional Commissioner, Amravati Division, Amravati for deciding the appeal afresh after giving an opportunity of hearing to all the parties concerned.
- III. The Additional Commissioner is directed to expeditiously decide the matter by considering the position of law as laid down in ***Meena Atish Mohod*** (supra).

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

(PRAFULLA S. KHUBALKAR, J.)

APTE