



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

WRIT PETITION NO. 3113 OF 2026

Sunil Chaitramji Kamdi, Aged 37 years, Occ: Business
R/o Ward no.2, at and post Kelwad, Tahsil Saoner,
District Nagpur.

PETITIONER

VERSUS

1. Tahsildar, Saoner, Office at Saoner, Dist. Nagpur.
2. Returning Officer for Election of Sarpanch-Kelwad,
Also working as Extension Officer, Panchayat Samiti,
Saoner, Aged 40 years, Occ: Service, Office at
Tahsil Office, Saoner, District Nagpur.

RESPONDENTS

Shri N.L. Jaiswal, counsel for the petitioner.
Ms P.T. Joshi, Assistant Government Pleader for the respondents.

CORAM : PRAFULLA S. KHUBALKAR, J.
DATE : APRIL 17, 2026

ORAL JUDGMENT

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

2. The petitioner has challenged the order dated 15.04.2026 passed by the respondent no.2-Returning Officer for Election of Gram Panchayat by which the petitioner's nomination form came to be rejected. The petitioner had submitted the nomination form for by-election to Gram Panchayat Kelwad, Taluka Saoner, District Nagpur, scheduled to be held in accordance with the election programme already declared.

3. The petitioner was elected as Member of Gram Panchayat but was disqualified under Section 14(1)(j-3) of the Maharashtra Village

Panchayats Act, 1959 (for short, 'the Act') by virtue of an order dated 14.07.2023 passed by the Additional Collector, Nagpur. This order was confirmed up to the Hon'ble Supreme Court. In view of the vacancy created, the election programme was declared and the petitioner submitted his nomination form on 13.04.2026. The petitioner's nomination form came to be rejected by order dated 15.04.2026 which is challenged by way of instant petition.

4. Shri N.L. Jaiswal, learned counsel for petitioner vehemently submitted that the rejection of nomination form of the petitioner is arbitrary and illegal since there is no provision to prohibit a disqualified candidate to contest the election of Gram Panchayat. He submitted that although the petitioner was earlier disqualified as Member of the Gram Panchayat on account of encroachment on Government land by his father, however, the said encroachment is removed as certified by the Committee consisting of a Gram Panchayat Officer and Talathi and therefore the petitioner cannot be considered as disqualified to contest the election. By inviting attention to a certificate issued by the Committee consisting of Talathi and Gram Panchayat Officer, he submitted that the petitioner's disqualification is removed and the reasons for rejection of nomination form by considering earlier tenure of the Gram Panchayat are unsustainable.

5. Per contra, Ms P.T. Joshi, learned Assistant Government Pleader for the respondents opposed the petition by raising a preliminary objection about availability of an alternate remedy of filing the election petition. She submitted that the petition is not maintainable in view of disputed

questions of fact with regard to alleged removal of disqualification of the petitioner. She submitted that the certificate issued by the Committee consisting of the Gram Panchayat Officer and Talathi mentioning removal of encroachment, cannot be considered to be conclusive to confer eligibility on the petitioner to contest the election. She also submitted that the petitioner was disqualified by the orders passed by the Collector which are upheld up to the Hon'ble Supreme Court and as such the reasons recorded by the Returning Officer while passing the impugned order are absolutely justified.

6. While considering the controversy, it has to be noted that undisputedly the petitioner was disqualified under Section 14(1)(j-3) of the Act by orders passed by the Additional Collector which were confirmed upto the Hon'ble Supreme Court. The Returning Officer has rejected the nomination form by specifically recording the petitioner's earlier disqualification for the entire tenure for which the petitioner was earlier elected. The petitioner's entire reliance to contend that the disqualification stands removed is on the basis of a certificate purportedly signed by a Gram Panchayat Officer and Talathi. Although the petitioner has stated that the certificate is issued by the competent Committee, however in response to a pertinent query, the counsel for the petitioner failed to point out any statutory provision regarding constitution of the said Committee or showing authenticity of such certificate. Pertinently, the respondents have specifically disputed the said fact about removal of disqualification and have also questioned the certificate issued by the Committee. Thus, the very contention of the petitioner about removal of

encroachment is surrounded by the disputed questions of fact and there is no conclusive document about removal of encroachment by the petitioner making him eligible to contest the election.

7. It has to be noted that the effect of the earlier order passed by the Additional Collector about petitioner's earlier disqualification cannot be nullified by the certificate purported to have been issued by a Committee consisting of a Gram Panchayat Officer and Talathi. In this regard, the provisions of Section 16 of the Act also needs to be given due consideration. Pertinent to note, the Returning Officer has rejected the nomination form by observing that the petitioner was disqualified for the entire term for which he was elected. Section 16(1)(a) and (b) of the Act deal with the provision of disability of the Member to hold the post on account of disqualification under Section 14 of the Act. This provision provides for disability for a Member to continue as Member during his term and it is provided that his Office shall become vacant. As such, the disability has to be related with the period for which the Member was elected and pertinently there is no provision about removal of disqualification or revival of eligibility. As such, in absence of any provision conferring eligibility on the Member, the contentions of the petitioner about securing eligibility only because of removal of encroachment, cannot be accepted. It is not the petitioner's case that after earlier orders of disqualification, the petitioner has obtained any subsequent order from the Additional Collector or any competent authority certifying that the earlier disqualification stands removed.

8. In view of aforesaid, after giving anxious consideration to the order passed by the Returning Officer rejecting the nomination form, there does not appear any illegality. The entire thrust of the petitioner about removal of disqualification is based on the certificate issued by the Gram Panchayat Officer and Talathi, which cannot be considered to be conclusive having any statutory force and as such the contentions canvassed on behalf of the petitioner are not acceptable. It has also to be noted that the position of law is settled that interference with the election process has to be avoided unless it subserves further process of election and considering the stage at which the election programme is advanced (at the stage of allotment of symbols), interference at this stage is unwarranted. Needless to state, the petitioner is entitled to raise all contentions by filing election petition, if situation arises.

9. In view of abovementioned factual and legal aspects, no interference is warranted with the impugned order. The writ petition is accordingly dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)