

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO.154 OF 2014

1. Suresh s/o Tukaram Solanke,
Age 32 years, Occu. Agril.,
2. Dilip s/o Tukaram Solanke,
Age 30 years, Occu. Agril.,
3. Prakash s/o Sarjerao Chavan,
Age 45 years, Occu.Agril.,
4. Ramesh s/o Sarjerao Chavan,
Age 42 years, Occu.Agril.,
5. Sanjay s/o Babulalji Sharma,
Age 42 years, Occu.Agril.,
6. Vinod s/o Babulalji Sharma,
Age 38 years, Occu. Agril.,
7. Ranjeet s/o Balasaheb Gaikwad,
Age 30 years, Occu. Agril.,
8. Dattatraya s/o Balasaheb Gaikwad,
Age 28 years, Occu.Agril.,
9. Shaikh Manjur Shaikh Chand,
Age 35 years, Occu. Agril.,
10. Shabana Shaikh Manjur,
Age 28 years, Occu. Agril.,
11. Shaikh Rahim Shaikh Ahmed,
Age 29 years, Occu. Agril.,
12. Shaikh Taufik s/o Abdul Sattar,
Age 35 years, Occu. Agril.,

Above all R/o Majalgaon,
Taluka Majalgaon, Dist. Beed

.. Petitioners

Versus

1. The State of Maharashtra
Through its Secretary,
Urban Development Department,
Mantralaya, Mumbai 400 032
2. Chief Officer,
Municipal Council, Majalgaon,
District Beed
3. The Collector, Beed,
District Beed .. Respondents

Mr N.B.Khandare, Advocate for petitioners
Mr G.R.Ingole, A.G.P. for respondent No.1
Mr S.R.Choukidar, Advocate for respondent No.2

**CORAM : R.M. BORDE AND
N.W. SAMBRE, JJ.**

DATE : 16th February 2015

ORAL JUDGMENT (Per R.M. Borde, J.)

1. Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.
2. The petitioners are seeking quashment of the order passed by Chief Officer, Municipal Council, Majalgaon on 20th November 2013 directing cancellation of the order of regularisation of occupation of the petitioners under the Maharashtra Gunthewari Developments (Regularisation Upgradation and Control) Act, 2001. It is recorded in the order that the Chief Officer is directed by the Collector to cancel the orders of regularisation and accordingly the Chief Officer has taken steps and issued the orders. Except the alleged direction of the Collector, there is no reason to revoke the orders of regularisation.

3. We have asked the Counsel for Chief Officer, Municipal Council as to whether the order issued by the Chief Officer is justiciable on any other ground or that any other violation is committed by the person concerned. However, it has been categorically admitted that except for the reason of issuance of directions by the Collector, there is no other justiciable reason for issuing the order of cancellation of regularisation. The affidavit-in-reply has been presented by the District Administration Officer, Urban Development Branch, Collector Office, Beed on behalf of the Collector, wherein it has been stated that no such oral or written directions have been issued on behalf of the Collector to the Chief Officer, Municipal Council, Majalgaon. It is also stated that there is no delegation of powers from the State Government under Section 19 (1) of the Maharashtra Gunthewari Developments (Regularisation, Upgradation and Control) Act, 2001, either to the Collector or any of the Officer of the State Government and as such, the reference made in the order to the oral directions issued by the Collector, is also not relevant.

4. In view of the affidavit tendered on behalf of the Collector, the order dated 20th November 2011, passed by the Chief Officer, Municipal Council, Majalgaon is unsustainable and the same is accordingly quashed and set aside.

5. Rule is made absolute in above terms. There shall be no order as to costs.

(N.W. SAMBRE, J.)

(R.M. BORDE, J.)

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