

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

Writ Petition No. 2770 of 2005

District : Osmanabad

Kachru s/o. Laxman Navgire,
Age : 35 years,
Occupation : Labour,
R/o. Watwada, Taluka : Kallam,
District : Osmanabad.

.. Petitioner.

versus

1. The State of Maharashtra,
Through its Secretary,
Department of Rural Development,
Mantralaya, Mumbai - 32.
2. The Chief Executive Officer,
Zilla Parishad, Osmanabad,
and President of
Executive Committee,
D.R.D.A., Osmanabad,
Taluka & District : Osmanabad.
3. Project Director,
D.R.D.A. Department,
Z.P., Osmanabad,
Taluka & District : Osmanabad.
4. Block Development Officer (Class-I),
Panchayat Samiti, Kallam,
Taluka : Kallam,
District : Osmanabad.
5. Village Panchayat, Watwada,
Taluka : Kallam,
District : Osmanabad,
Through its Gramsevak.

6. Sau. Varsha Shirish Patil,
Age : 30 years,
Occupation : Nil,
R/o. Watwada,
Taluka : Kallam,
District : Osmanabad.

.. Respondents.

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Mr. R.D. Raut, Advocate, for the petitioner.

*Mr. A.M. Phule, Asst. Government Pleader, for
respondent no.1.*

*Mr. K.J. Ghute Patil, Advocate, for respondent
nos.2 to 5.*

Mr. Milind M. Patil, Advocate, for respondent no.6.

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**CORAM : S.V. GANGAPURWALA &
A.M. BADAR, JJ.**

DATE : 5TH FEBRUARY 2016

ORAL JUDGMENT (Per S.V. Gangapurwala, J.) :

1. Mr. Raut, the learned Counsel for the petitioner, submits that the petitioner was allotted house under 'Indira Awas Gharkul Yojana' as he was eligible and entitled to under the said scheme. The learned Counsel submits that he is in possession of the said property. The impugned order is issued without notice to the petitioner and without hearing the petitioner. The contents of the said order are illegal and not as per the record.

2. Mr. Ghute, the learned Counsel for respondent nos.2 to 5, submits that after considering the record, the order has been passed by the Chief Executive Officer of the Zilla Parishad. No error has been committed.

3. We have also heard the learned Asst. Government Pleader for respondent no.1.

4. It is not disputed that the petitioner was selected in the Gram Sabha vide resolution dated 26-6-2002 for the benefit of *Indira Awas Gharkul Yojana*. When any order adverse to the interest of person is passed, elementary principles of natural justice are required to be adhered. In the present case, the impugned order is passed without issuing notice to the petitioner and even without hearing the petitioner. Such an order cannot be sustained.

5. In the light of the above, the Writ Petition is allowed.

(a) The impugned order dated 25-6-2004 [Exhibit "F"] passed by respondent no.2 is quashed and set aside.

(b) In case, respondent no.2 / authority chooses to proceed against the petitioner, in respect of the benefit given of *Indira Awas Gharkul Yojana*, then respondent no.2 / authority shall give notice to the petitioner, shall call for say of the petitioner and then only proceed further adhering to the principles of natural justice.

(c) Contentions of respective parties are kept open.

6. Rule is made absolute in the above terms. No costs.

(A.M. BADAR)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

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