

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

**WRIT PETITION NO. 539 OF 2016**

Rajiv Raghunath Patil

...PETITIONER

versus

The State of Maharashtra and others

...RESPONDENTS

.....  
Mr. Lalitkumar S. Mahajan, Advocate for petitioner  
Mr. S.S. Dande, AGP for respondents No. 1 to 4.  
.....

**CORAM : S. V. GANGAPURWALA AND  
K.K. SONAWANE, JJ.**

**DATED : 12<sup>th</sup> APRIL, 2016.**

**Order :-**

1. Mr. Mahajan, learned counsel for petitioner states that communication/order dated 08-07-2015 (Exhibit-C), rejecting the application of the petitioner dated 26/27-03-2015 under section 44 of the Maharashtra Land Revenue Code, 1966 (for short "MLR Code") is absolutely erroneous. Though the petitioner has submitted resolution passed by the Gram Panchayat, however, impugned communication/order states that resolution of the Gram Panchayat has not been submitted.

2. Mr. Mahajan, learned counsel submits that no notice is received from the authorities concerned to the petitioner and if no decision is taken on his application under section 44 of the MLR Code, 1966 within 90 days from the date of application, it shall be deemed that the permission is granted. Thus, the petitioner is entitled for such

permission as all other details are given .

3. Mr. Dande, learned Assistant Government Pleader submits that the impugned communication/order has been passed on 05-07-2015 considering the relevant aspects of the matter and requirements of section 44 of the MLR Code.

4. We have considered the impugned communication/order. It states that in view of the objection of Assistant Director of Town Planning as raised in its letter dated 03-06-2015 permission was not granted. According to petitioner, no objection of the Gram Panchayat is very much part of the annexure of the application of the petitioner. Land is not under acquisition is also specifically stated.

5. It appears that Sub-Divisional Officer only on the basis of letter received from Assistant Director of Town Planning has rejected the application. The order also is not very specific.

6. In the light of that, we set aside communication/ order dated 08-07-2016 issued by Sub-Divisional Officer, Faizpur, District Jalgaon and remit the matter back to Sub-Divisional Officer, Faizpur, District Jalgaon for disposal in accordance with law. The petitioner may appear before the Sub-Divisional Officer, Faizpur, District Jalgaon. If there are some deficiencies in the application the petitioner is at liberty to clear the deficiencies, if any.

7. The authority shall consider that the application is filed on 26/27-03-2015 and also consider as to how Government Resolution

dated 06-05-2015 would be applicable. The authority shall decide the application of the petitioner dated 26/27-03-2015 under section 44 of the MLR Code afresh, as expeditiously as possible, preferably within 90 days. All the contentions of the petitioner are kept open.

8. With aforesaid directions, writ petition stands disposed of. No cost.

Sd/-

**[ K. K. SONAWANE, J.]**

Sd/-

**[S. V. GANGAPURWALA, J.]**

MTK