

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2299/2016

(ASHA PATIRAM JADHAV & OTHERS **VERSUS** THE STATE OF MAHARASHTRA & OTHERS)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri A.M. Gedam, counsel for the petitioner.
 Mrs. G.R. Tiwari, A.G.P. for the R-1 to 5.

CORAM : SMT.VASANTI A. NAIK AND
V.M. DESHPANDE, JJ.

DATE : APRIL 18, 2016.

By this writ petition, the petitioners seek criminal as well as civil action against the respondent no.6-Talathi for committing irregularities-illegalities in disbursing the amount payable to the families towards compensation due to the loss caused by heavy rains.

It is the case of the petitioners that though Shri Subhash Patil and Smt.Kantabai Somkuwar, whose names appear at Serial Numbers 212 and 45 in the lists prepared as per the report of the Talathi for payment of compensation, have expired and there are no other members in the families of which they were the heads, a sum of Rs.7500/- is shown to be paid to the two families. It is stated that Suchita Thavre and Subhangi Thavre, whose names appear at Serial Numbers 33 and 35 of the lists prepared by the Talathi for payment of compensation are the members of the same joint family and separate compensation could not have been paid to them. It is stated that since the lists have not been prepared by the Talathi in accordance with law, criminal and civil action is required to be initiated against the respondent no.6-Talathi, who is joined as a party in person.

Mrs.Tiwari, the learned Assistant Government Pleader appearing on behalf of the respondent nos.1 to 5, states that the fact that the two aforesaid persons are dead and that Suchita Thavre and Subhangi Thavre are the members of the same joint family is not averred in the instant writ petition. It is stated that a bald statement is made in the writ petition that the respondent no.6 has committed illegalities while preparing the lists. It is stated that the lists are prepared after due verification. It is stated that if the petitioners are desirous of initiating criminal action against the respondent no.6, they are free to do so by taking recourse to the provisions of the Code of Criminal Procedure, 1973.

In the circumstances of the case, we are not inclined to grant the relief sought by the petitioners in the instant petition. We, however, direct the respondent no.3-Collector, Nagpur to make an enquiry whether Shri Subhash Patil and Smt.Kantabai Somkuwar were dead and whether there were no other member surviving in their families, to whom the compensation was shown to be paid. Also, it would be necessary for the respondent no.3 to consider whether Suchita Thavre and Subhangi Thavre are the members of one joint family and still the compensation was separately paid to the families of both of them. The respondent no.3-Collector, Nagpur may make an enquiry in this regard and take appropriate action, if at all necessary against the erring parties. In the circumstances of the case, we are not inclined to direct the respondent nos.1 to 5 to initiate criminal action against the respondent no.6. If the petitioners are desirous of taking any action against the respondent no.6, they are free to do so by availing the remedies under the Code of Criminal Procedure, 1973.

With the aforesaid observations and directions, we dispose of the writ petition with no order as to costs.

Steno copy of the order is granted to the learned Assistant Government Pleader, on request.

JUDGE

JUDGE

APTE