

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 3418/2016

(Shri Yuvraj s/o Mahadeo Borkar and others vs. The State of Maharashtra and
others)

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

Court's or Judge's order

Mr. O.K. Masurke, Advocate for the petitioners
Ms.N.P. Mehta, Assistant Govt. Pleader for Respondent Nos.1 to 3

CORAM : **SMT. VASANTI A.NAIK &**
MRS.SWAPNA JOSHI, JJ.

DATED : **21st June, 2016**

Heard.

By this Writ Petition, the petitioners challenge the communication of the respondent no. 2-Executive Officer, Chandrapur Irrigation Department, Chandrapur, proposing to decrease the height of the wall of Mangrool Talao, by 30 cms. According to the petitioners, the respondent no.2 does not have any right to do so.

It is the case of the petitioners that some villagers from village Kitali have encroached upon the land near the Mangrool Talao and have illegally sought the reduction in the height of the wall of the Talao, by 30 cms. It is the case of the petitioners that by illegally upholding the objection raised on behalf of several villagers, the respondent no.2 has recommended the reduction of the height of the wall of the Talao, considerably.

It is stated that the petitioners are agriculturists and take water from the *Talao*, for the purpose of irrigation. It is stated that the decrease in the wall of the *Talao* would result in great hardship to the petitioners and some other villagers.

We are not inclined to issue the directions against the respondents, as sought by the petitioners in the instant petition. It appears that several disputed questions of facts would arise for determination in this Writ Petition. Several villagers are seeking reduction of the height of the wall as a safety measure. The petitioners are objecting to the reduction in the height of the wall as they are drawing water from the *Talao*. If the petitioners are aggrieved by the action on the part of other villagers as well as the respondent no.2, the petitioners are free to avail appropriate remedy. The issues involved in this Writ Petition cannot be decided in exercise of the writ jurisdiction

We dismiss the Writ Petition, with no order as to costs.

JUDGE

JUDGE

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