

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

5 PUBLIC INTEREST LITIGATION NO. 93 OF 2016

NATHRAO BABURAO MUNDE  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Solanke Shrikrashna B.  
GP for Respondents/State : Mr. A.B. Girase for Res. 1 to 3, 5, 7, 8  
Advocate for Respondents : Mr. P.D. Suryawanshi for R.4 and 6.  
Advocate for Respondents : Mr. Mahesh A. M. h/f. R.K. Jadhavar  
for Resp. 10 and 15

...

**CORAM : S.C. DHARMADHIKARI &  
MANGESH S. PATIL, JJ.  
DATE : 15.06.2017.**

**P.C. :-**

1. We have heard the learned Advocate appearing for the petitioner. We have perused the writ petition and all the annexures thereto.

2. The petitioner himself may claim to be a public spirited citizen and resident of the village Dahiphal (Wadmauli) Taluka Kaij, District Beed. The petitioner is very sure that one Dhondiba Eknath Gadale donated his own land for the purpose of construction of school, as also school play ground. He donated land ad-measuring 2 acres for the school at the village and styled as survey no. 244 converted in to gut no.244/1.

3. However, when copy of the Panchanama is referred at annexure "A", the record of rights and related documents, it is apparent that, there is a dispute as to where the 0.80 R stated to be the land or property of the Zilla Parisahd and now the Zilla Parishad (Primary) School is situated and whether the Chief Executive Officer, Zilla Parishad, Beed, the Block Development Officer or the Primary School itself is aware that land belonging to it has been allegedly encroached.

4. Secondly, we find that the alleged encroachment is an act of 1988-89. The Headmaster has made a complaint with regard to this act on 11.09.1989, annexure "C". Though, the Headmaster's assertion is on record, neither the Zilla Parishad nor the primary school followed up. Even the Chief Executive Officers' appointed, as such, have not taken note of any of these alleged encroachments.

5. In a Public Interest Litigation, when there is a dispute of this nature merely because a villager has come forward, we cannot direct holding of any inquiry or investigation. The villager is no better than the primary school Headmaster who complained on 11.09.1989 but after that did nothing. A resident like the petitioner residing in the same village would have noticed the alleged encroachments or the construction

activity but turned a blind eye to it. We do not see any reason, therefore, to now hold an inquiry or cause an inquiry to be held at the instance of the petitioner-applicant. More so, when the Zilla Parishad itself has not taken any action.

6. In the circumstances, we do not think this Public Interest Litigation can be entertained and it is dismissed.

**[MANGESH S. PATIL, J.]**

**[S.C. DHARMADHIKARI, J.]**