

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION

PUBLIC INTEREST LITIGATION (STAMP) NO.30405 OF 2016

Panshet Purgrast Samittee.

.. Petitioner

Vs

The State of Maharashtra.

.. Respondent

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Shri Tejesh Dande i/b M/s. Tejesh Dande & Associates for the
Petitioner.

Shri Vikas Mali, AGP for the State.

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CORAM : DR.MANJULA CHELLUR, C.J. &
N.M. JAMDAR, J.

DATED : 7TH SEPTEMBER 2017

P.C.

1. Heard learned counsel appearing for the Petitioner.
The Petitioner is before this Court claiming to be a pro bono
Applicant seeking following reliefs.

- “(a) Record in respect of meeting dated 15.07.2014 held with the Secretaries and presided over by the Minister of Revenue on regularization of encroachments on and around the plots allotted to 'Panshet Flood Affected Persons' may kindly be called for;
- (b) After considering the legality, validity and proprietary of the same, a writ of mandamus or any other writ, order or direction may kindly be issued against the Respondent State to issue appropriate order/Government Resolution for implementation and execution of the decision

taken in meeting dated 15.7.2014 with the Minister for Revenue, State of Maharashtra.”

2. According to the Petitioner, in the year 1961, on account of cracks in Panshet Dam near Pune city, it was damaged which resulted in heavy flood, ultimately destroying the lives of several people, apart from destruction of properties of the people, including public property. Further, it is contended that in the year 1976, three categories of structures were put up for the occupation and use of these flood affected persons by paying a nominal rent by them. However, these temporary constructions were to be utilized by the State Government. Therefore, they came out with a policy that the persons, who are already in the occupation of these tenements, can be allotted the respective tenements in their occupation at a minimum price, i.e. the cost of actual construction. It was further decided that the rent, so far paid by them, though nominal, would also be considered as a part of the consideration.

3. According to the Petitioner, several tenants were not able to arrange money within the time prescribed and, therefore, they could not purchase the tenements from the State Government. Therefore, they wanted one more chance to be provided so that they could get benefit of the policy of the State Government. In pursuance of such demand in the year 2014, according to the Petitioner, a Government Resolution was issued clarifying that while accepting the amounts towards the said tenements, the ready-reckoner of the year 1991 shall be the basis for the price to be paid by the flood affected persons. According to the Petitioner, in the year 2002, there was a Government

Resolution which made the policy to regularize unauthorised construction on the Government land in the State of Maharashtra which was again in the light of 1985 and 1999 policies. According to the Petitioner, so far as the flood affected persons, though a policy decision was taken, there is no implementation of the decision of the year 2014. Therefore, the Petitioner NGO is before this Court.

4. Apparently, the Panshet Dam flood problems relate back to the year 1961. During the period between 1961 to 2014, many hands must have changed so far as the tenements. We cannot assess the factual situation in the public interest litigation which involve individual right. Even otherwise, who are the original allottees in terms of 1976 policy, a decision has to be taken by the State Government. Whether these persons/claimants are in any way related to or have derived a right through the original allottees, is a matter to be decided by the concerned authorities in terms of policy of the Government to receive additional price at 1991 ready-reckoner rate and then allot the tenements. We are of the opinion that these are matters to be decided by the administration by a policy decision, considering the factual situation and then reasonableness of the demand made by the applicants. If the policy makers arrive at a conclusion that there is a necessity to consider the demand and evolve a scheme, then the scheme must be implemented in terms of the procedure to see that only deserving and genuine persons get the benefit of the scheme and not others. In that view of the matter, if any individual is having a vested right, who is entitled to get the

benefit of allotment of tenement in terms of the Government Resolutions passed in this regard, he is always at liberty to approach the Court and seek direction, depending upon his entitlement. We are of the opinion that the issue involved in the present public interest litigation cannot be decided as a general policy and issue a mandamus directing the Government to do a particular thing because such direction would be a blanket order which cannot be practically implemented.

5. With these observations, the PIL is disposed of.

(N.M. JAMDAR, J.)

(CHIEF JUSTICE)