

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 PUBLIC INTEREST LITIGATION NO. 5 OF 2018
WITH
CA/4661/2018 IN PIL/5/2018
WITH
WRIT PETITION NO. 9199 OF 2018

VALMIK PANDHARINATH WAKCHAURE AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Ambetkar Arvind G.
AGP for Respondents 1 to 4, 6 and 7 : Mr. S.Y.Mahajan
Advocate for Respondents no. 5 : Mr. S.T.Shelke

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CORAM : PRASANNA B. VARALE
AND
SUNIL K. KOTWAL, JJ.

DATE : NOVEMBER 1, 2018

O R D E R :

The present Public Interest Litigation No. 5 of 2018 as well as Writ Petition No. 9199 of 2018 are clubbed together.

2. In PIL 5 of 2018, petitioner nos. 1 and 2, who

are the residents of Dhondewadi, Post Jawalke, Taluka Kopargaon, District Ahmednagar, submitted before this Court that they are public spirited persons and certain Government lands are encroached upon by the private persons. It was also submitted in the petition that these petitioners along with other villagers approached various authorities raising this grievance, however, no action is initiated against the encroachers.

3. In Writ Petition No. 9199 of 2018, the petitioners admit that they are the encroachers, but they pray for protection to them in view of the Government Resoution, dated 16.2.2018. It is submitted in Writ Petition No. 9199 of 2018 that the petitioners are identically situated with some of the villagers, who have been given benefit of the Government Resolution or the Government policy. The petitioners' prayer for regularization of encroachment is also pending before the District

Authority, namely the Collector.

4. On perusal of the documents placed on record in PIL No. 5 of 2018, it reveals that the latest representation, dated 9.11.2015 is submitted to the Collector by the petitioners. It is stated in the representation that all the villagers are approaching the District Collector, but then perusal of the representation shows that there are as many as ten signatories to this representation including petitioner no.1 and petitioner no.2.

5. In the affidavit-in-reply filed on behalf of respondent nos. 3, 4, 6 and 7 through Shri Kishor Kadam, Tahsildar, Kopergaon, it is stated that certain part of the land of Gat No. 447 has been allotted to a School and remaining land is vested with the Village Panchayat. Then, it is further submitted that out of Gat No. 448, part of the land has been allotted for Gharkul purpose to the SC and

ST persons under the orders of the Collector. It is then submitted that as per the provisions of law, more particularly Section 53 of the Village Panchayat Act, the Grampanchayat is the competent authority to take certain actions in case of encroachment.

6. Now, as both these parties, namely the petitioners in PIL and the petitioners in Writ Petition No. 9199 of 2018 are before the Collector, raising their respective grievances, in our opinion, both the petitions can be disposed of by issuing direction to the Collector, District Ahmednagar to decide the representation of the petitioners, dated 9.11.2015 and the representations of the petitioners in Writ Petition No. 9199 of 2018 within stipulated time frame.

7. Accordingly, PIL 5 of 2018 and Writ Petition No. 9199 of 2018 are disposed of by issuing direction to the Collector, District Ahmednagar to decide the

representation of the petitioner, dated 9.11.2015 and the representations of the petitioners in Writ Petition No. 9199 of 2018, as expeditiously as possible, and preferably within sixteen weeks from the date of this order. Needless to state that said exercise of decision be undertaken on the merits of the claims submitted by the respective petitioners and the Collector, Ahmednagar shall pass the speaking order assigning his reasons. We further make it clear that if these parties pray for opportunity of hearing, the Collector, Ahmednagar may grant such opportunity of hearing to the parties concerned. It is made clear that the Collector, Ahmednagar is not prevented from calling necessary record or material from his subordinate officials, so as to facilitate him to reach to an ultimate conclusion.

8. The petitioners have deposited an amount of Rs.Ten Thousand in this Court to show their bona fides. Petitioners are permitted to withdraw the

amount deposited by them in this Court.

9. With the above directions, both the PIL and Writ Petition are disposed of.

[**SUNIL K. KOTWAL, J.**] [**PRASANNA B.VARALE, J.**]

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