

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**PUBLIC INTEREST LITIGATION NO. 61/2018**

Shri Kawadu S/o Hariji Wanjari

..VS..

Union of India & ors.

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

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Shri P.D. Randive, Advocate for petitioner  
Shri U. Aurangabadkar, ASGI for respondent no. 1  
Ms. K.R. Deshpande, AGP for respondent nos. 2 and 3  
Shri V.G. Palshikar, Advocate for respondent no. 4  
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**CORAM : B.P. DHARMADHIKARI AND**  
**Z.A.HAQ, JJ.**

**DATED : 18/07/2018**

1]            Heard.

2]            Grievance of petitioner is his village Awarmara in Kuhi Tahsil, Nagpur District is affected because of the back water of Gosekhurda water reservoir and irrigation project. He has pointed out an inspection report prepared after visiting village at 2 pm on 02/06/2016 by SDO, Umred and Tahsildar, Kuhi. Report to certain extent lends credence to his story.

3]            Respondent no. 3/Collector has filed affidavit and in preliminary objection to the tenability of PIL, there is no challenge to this inspection report.

4]            However, respondent nos. 2, 3 and 4 rely upon technical data. Advocate Palshikar for respondent no. 4 emphatically pleads that after completion of Gose Project,

maximum water level in dam would not exceed 245.50 meters while Gaothan and village Awarmara is located above this level. He submits that levels are taken from sea level and lowest point in Awarmara is at height of 247.77 meters. Thus there is difference of about two meters and water level in Gose project would be below the lowest land point in Awarmara. He has also invited our attention to distance of village from water reservoir or its back water. According to him, inspection report prepared on 02/06/2016 does not record correct position.

5] Learned ASGI submits that presently Union of India is not concerned in the matter.

6] We find conduct of respondent no. 3 in raising preliminary objection to tenability of PIL itself highly objectionable. When a report is prepared by his subordinates like SDO and Tahsildar and they point out how water has reached near house of a lady Smt. Siti Shailesh Dhargawe, respondent nos. 2 and 3 should have immediately rushed to the spot and monitored the situation or then proceeded to take action against SDO and Tahsildar for incorrect reporting. Respondent nos. 2 and 3 ought to have immediately arranged for taking height from sea level so as to ascertain correctness of technical data being pressed into service now by them.

7] If factually, SDO and Tahsildar are correct, technical data is incorrect. Hence height readings may be incorrect or then water level as noted therein may not be correct.

8] Being responsible officers, it is the duty of respondent nos. 2 and 3 to safeguard all villagers of Awarmara and their properties. .

9] Learned advocate for petitioner submits that even last year, there were similar problem and this year because of water seepage in the ground, septic tanks cannot be used.

10] In PIL, we are not recording adverse finding against anybody. We direct respondent nos. 2 and 3 to immediately arrange for taking height measurements and to find out actual height of water table in reservoir and depth at which ground water is available in village Awarmara & at its lowest point. Necessary exercise on these lines or on such technical lines as experts may advise to respondent nos. 2 and 3 shall be completed by them within next three weeks.

11] If they find that village Awarmara needs to be rehabilitated, necessary steps in that direction, shall be initiated forthwith thereafter.

12] With this direction, we partly allow PIL and dispose it of. No costs.

**JUDGE**

**JUDGE**