

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

3 WRIT PETITION NO.962 OF 2018
WITH CIVIL APPLICATION NO. 5548/2019
IN WRIT PETITION NO. 962/2018
WITH
CIVIL APPLICATION (ST) NO.23054/2019
IN WRIT PETITION NO. 962/2018

TUKARAM HARI PAWAR AND OTHERS
VERSUS
THE UNION OF INDIA AND OTHERS

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Advocate for Petitioners : Mr. Patil Prakashsing B.
AGP for Respondents 4 to 6: Mr. P.K. Lakhotiya
Advocate for Respondent No.2 : Mr. D.S. Manorkar
Advocate for respondents 1 and 3: Mr. Ravi R. Bangar
Advocate for Intervenor: Ms. Sharda P. Chate

**CORAM : S. V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATE : 25th July, 2019

PER COURT:

1. Mr. Patil, the learned Advocate for the petitioners submits that on 20.05.2016, notification was published in the Gazette of India for widening of National Highway No.361 going through village Malakoli. Thereafter, tender notice was issued. On 14.11.2017, previous plan was changed. The project cost was also increased by 200 crores. Previous plan was changed under the political pressure. Because of the change in the alignment, there would be loss to the public exchequer. Wrong Gat numbers are also mentioned in the notification.

Gat Numbers that are not in existence also found place in the notification. Without survey and without measurement, notification is published by the respondents.

2. Mr. Manorkar, learned Advocate for the Highway Authority submits that considering the resolution passed by the Grampanchayat Sabha and agitations, the plan was modified and in the modified notification, out of 16 petitioners, lands of 12 petitioners are not affected and lands of only 4 petitioners are affected. The same is after taking advice from the experts.

3. Mr. Patil, the learned Advocate submits that Gramsevak had given a letter to the petitioners stating that no such resolution has been passed by the Grampanchayat. To prepare alignment is the job of experts. The experts would decide the nature of alignment. This Court would only interfere if it is a case of malafide.

4. Out of 16 petitioners, lands of 12 petitioners are not affected. Earlier notification was issued under section 3(A) of the National Highways Act, inviting objections to the changed plan. It appears that at the relevant time objections were not raised with regard to the changed plan and thereafter notification has been

issued under Section 3(D) of the National Highways At. The petitioners ought to have raised objection to the notification under section 3(A) at the appropriate time.

5. Alignments are made considering the stretch of the road and considering the actual area to be acquired. In such case, unless malafides are shown, it would not be appropriate to interfere in the matter. In the absence of any malafides and no objection raised by the petitioners at the relevant time, it is not possible to accede with the case of the petitioners.

6. In the light of above, writ petition is disposed of. No costs.

7. In view of disposal of the Writ petition, Civil applications also stands disposed of.

(MANGESH S. PATIL, J.)

(S.V.GANGAPURWALA, J.)

JPC