

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

**BENCH AT AURANGABAD**

**WRIT PETITION NO. 4165 OF 2014**

1] Shivaji S/o Ashruba Shirole,  
Age : 44 Years, Occ. Agriculture

2] Sanjay S/o Ganpat Shirole,  
Age : 40 Years, Occ. Agriculture

Both R/o. Telangshi, Tq. Jamkhed,  
Dist. Ahmednagar

..PETITIONERS

**VERSUS**

1] The State of Maharashtra,  
Through its Secretary,  
Rural Development Department,  
Mumbai- 400 032

2] The Divisional Commissioner,  
Nasik Division, Nasik.

3] The Collector,  
Ahmednagar

4] The Tahsildar,  
Jamkhed Tq. Jamkhed,  
Dist. Ahmednagar

5] The Zilla Parishad,  
Ahmednagar, Dist. Ahmednagar  
Through its Chief Executive Officer

6] The Village Panchayat,  
Telangshi, Tq. Jamkhed,  
Dist. Ahmednagar  
Through its Gram Sevak

..RESPONDENTS

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Advocate for the Petitioners : Shri. N. V. Gaware  
AGP for Respondent Nos. 1 to 4 : Mr. A.B. Chate  
Advocate for Respondent No.5 : Mr. S.T. Shelke

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**CORAM : T.V. NALAWADE AND  
SUNIL K. KOTWAL,JJ.  
DATE : 16<sup>th</sup> JANUARY, 2019.**

**ORAL ORDER :-**

The petition is filed for relief of giving direction to the respondents to make allotment of the plots from land Gut No. 811 (New Survey No.411), of village Telangshi, Tq. Jamkhed, Dist. Ahmednagar.

2. Both the sides are heard.

3. In the year 1971, land Gut No. 811 was acquired by the Government for making its allotment to persons of Scheduled Caste by developing the property and preparing plots in the property. It is contention of the petitioners who are two in numbers that they were entitled to get the plots but others including the village Panchayat are trying to grab that property and the property was being used for making construction of the Primary Health Center by the Zilla Pariashad Ahmednagar.

4. The record shows that the land was acquired as contended by the two petitioner. In the year 1970, even Mutation Entry was also made to the effect that it was to be given to the backward class persons but in the year 1971, the said Mutation Entry came to be cancelled. There is typed copy of statement (A) allegedly prepared by the Assistant Collector Parner Division Dist. Ahmednagar to show that to 49 persons plots were to be allotted and in the list their names are mentioned. The

names of the present petitioners are not present in this list. There is copy of panchnama which is again a typed copy of the year 2009 and this document also does not show that present petitioners were occupying any portion of the aforesaid land. Thus, there is no record of actual allotment and handing over of the possession of the land to the petitioners. On the contrary, there is revenue record showing that in the year 1971 itself, the mutation was cancelled and Government was shown as owner. There is copy of Government Resolution of Health Department dated 17.01.2013 and it shows that Primary Health Center was sanctioned for this place and the disputed land was to be utilized for making construction of Primary Health Center.

5. There are more circumstances which can be found in the reply affidavit of the village panchayat and they show that present petitioners have other property in the village Panchayat. In any case, when there is no record of allotment of plots in favour of the present petitioners, there is no record of giving of possession of the plots to any body and there is no record of utilization of the plots by anybody and further there is record of cancellation of proposal this Court holds that no direction can be given in favour of the present petitioners. In the result, petition stand dismissed.

**[SUNIL K. KOTWAL]**  
**JUDGE**

**[T.V. NALAWADE]**  
**JUDGE**

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