

(1)

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

WRIT PETITION NO.4558 OF 2019

1. Sopan s/o Tejrav Jadhav,
Age: 27 years, Occu: Service in Army,
R/o Perjapur, Tq. Bhokardan,
Dist. Jalna,
At present posting in : Army (SEP),
Electronic and Mechanical Engineering
Department, Meerut (UP)

2. Tejrav s/o Sandu Jadhav,
Age: 67 years, Occu: Labour work,
R/o. Perjapur, Tq. Bhokardan,
Dist. Jalna

..PETITIONERS

VERSUS

1. The State of Maharashtra,
Through Principle Secretary,
Rural Development Department,
Mantralaya, Mumbai-32
2. The Collector,
Dist. Jalna
3. The Sub Divisional Officer,
Bhokardan, Tq. Bhokardan,
Dist. Jalna
4. The Tahasildar,
Bhokardan, Tq. Bhokardan,
Dist. Jalna
5. The Block Development Officer,
Panchayat Samiti, Bhokardan,
Tq. Bhokardan, Dist. Jalna
6. The Village Development Officer,
Village Panchayat Perjapur,
Tq. Bhokardan, Dist. Jalna

..RESPONDENTS

(2)

Mr S. S. Tope, Advocate holding for Mr V. U. Pawar, Advocate for petitioners;

Mrs A. V. Gondhalekar, A.G.P. for respondent Nos.1 to 4

**CORAM : PRASANNA B. VARALE
AND
NITIN W. SAMBRE, JJ.**

DATE : 10th April, 2019

ORAL ORDER:

Heard.

2. This petition is preferred with following reliefs:-

“A) The writ petition may kindly be allowed.

B) This Hon'ble Court may kindly issue the writ of mandamus or any other writ in like nature, may kindly direct the respondent authorities to regularize the encroachment of petitioner to the extent of area of 10 R situated in Gut No.181 of village Perjapur Tq. Bhokardan Dist. Jalna

C) This Hon'ble Court by issuing writ of certiorary or any other writ in the like nature, may kindly quash and set aside the impugned notice issued by Village Panchayat Perjapur dated 04/04/2018 for removal of encroachment.

D) Pending hearing and the final disposal of the present writ petition, the impugned notice issued by village Panchayat Perjapur dated 04/04/2018 for removal of encroachment may kindly be stayed.

(3)

E) Ad-interim relief in terms of prayer clause “D” may kindly be granted.”

3. Learned Counsel for the petitioners Mr. Tope has placed reliance on the Government Resolutions dated 16th February, 2018 and 20th August, 2018 so as to claim that power vest in the Gram Panchayat to prepare appropriate proposal and submit the same to the competent authority pursuant to the scheme framed by it. Admittedly, in the case in hand, pursuant to the request of the petitioners for regularization of encroachment, the Gram Panchayat has issued NOC and the ball is in the Courts of the Tahsildar and the Collector.

4. The aforesaid recourse taken by the Gram Panchayat of granting NOC is not identified in the scheme reflected in aforesaid Government Resolutions.

5. In the aforesaid background, we dispose of this petition with following order :-

The petitioners shall take out a detailed application for regularization of encroachment pursuant to the scheme reflected in the Government Resolutions dated 16th February, 2018 and 20th August, 2018 within a period

(4)

of two weeks from today. The petitioners shall furnish all the necessary details as contemplated in the said Government Resolutions.

The Gram Panchayat shall take decision on the said representation pursuant to the contents of aforesaid Government Resolutions within a period of ten weeks from the date of the receipt of such representation and communicate the petitioners the decision taken thereon.

If the decision of the Gram Panchayat supports the cause of the petitioners for regularization of encroachment, it is expected of the Committee referred to in the aforesaid Resolutions, to take decision on the same within a period of ten weeks from the date of such recommendation.

With aforesaid observations, the petition is disposed of accordingly

(NITIN W. SAMBRE, J.)

(PRASANNA B. VARALE, J.)

sjk