

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

WRIT PETITION NO. 8143 OF 2014

Shivaji Asaram Malode
Age: 48 years, Occu.: Agri.,
R/o Deolana, Tq. Kannad,
Dist. Aurangabad

..PETITIONER

VERSUS

1. State of Maharashtra
Through the Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32
2. The Collector,
Collectorate, Aurangabad.
3. The Tahsildar
Tahsil Office, Kannad,
Tq. Kannad, Dist. Aurangabad
4. The Executive Director
Godavari Marathwada Irrigation
Development Corporation, Jalna Road,
Aurangabad
5. The Executive Engineer,
Minor Irrigation Division No.1,
Aurangabad, Dist. Aurangabad

..RESPONDENTS

....
Mr. D.A. Bide, Advocate h/f Mr. P.G. Tambade, Advocate for petitioner
Mr. S.S. Dande, A.G.P. for respondent nos.1 to 3
Mr. U.K. Patil, Advocate for respondent nos. 4 and 5
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**CORAM : SUNIL P. DESHMUKH AND
R.G. AVACHAT, JJ.**

DATED : 24th APRIL, 2019

ORAL JUDGMENT (PER : SUNIL P. DESHMUKH, J.)

Rule. Rule made returnable forthwith and heard finally with the consent of learned Counsel for appearing parties.

2. Petition has been moved seeking writ of certiorari against communications dated 04th January, 2014 and 17th July, 2014 issued by Respondents No.4 and 5, whereunder height of dam has been decided to be reduced by 0.50 meters. Learned Counsel for petitioner strongly urges to consider the request submitting that due to reduction in height of dam, water storage capacity of dam would come down and would consequently affect the water supply requirement of the village.

3. Lot of other lands beyond the acquired lands were getting submerged when water level in reservoir was full. In the circumstances, taking into account the scenario and taking a pragmatic view, it had been considered by respondents appropriate to reduce the height of dam by 0.50 meters. Same is apparently reasoned out under affidavit-in-reply as per the contents under paragraph nos. 4, 5, 6 and 7.

4. On behalf of respondents, it has been pointed out that petitioner alone is before the Court and would not have locus standi.

It has been referred to that he has not been empowered to take up a cause under the garb of it being public.

5. Petitioner's land had been acquired in the project and he has been properly compensated and he is not aggrieved by the same. Petitioner has not been able to produce any material on record in support of his claims. Besides petitioner, no other person from the area has been before this Court. Learned Counsel for respondent has pointed out that Gram Panchayat has supported reduction of dam height and resolution has been passed to that effect. Decrease in height is stated unlikely to affect the water storage capacity of drinking water significantly and that other suitable arrangements can always be possible.

6. In view of aforesaid, we do not consider that petition raises any issue requiring interference under Articles 226 and 227 of Constitution of India. Writ petition is dismissed. Rule is discharged.

SSD (R.G. AVACHAT, J.)

(SUNIL P. DESHMUKH, J.)