

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

**908 PUBLIC INTEREST LITIGATION NO.59 OF 2013
WITH CA/13703/2013 IN PIL/59/2013**

**BALASAHEB RAMCHANDRA PATARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. V. D. Hon, Senior Advocate i/b Mr. A. V. Hon,
Advocate for the petitioner
Mr. S. J. Salgar, AGP for the respondent/State
Mr. R. N. Dhorde, Senior Advocate i/b Mr. R. L. Kute,
Advocate for respondent Nos. 4 and 5
Mr. S. P. Sonpawale, Advocate for respondent No. 6.

**CORAM : Z.A. HAQ &
S.M. GAVHANE, JJ.
DATED : 03.03.2020**

PER COURT:-

. Heard.

2. By this Public Interest Litigation filed on 09th July 2013, the petitioner has challenged the communication issued by the Assistant Chief Engineer on 11th October, 2012 by which 359.19 Hectare land is dropped from the Lift Irrigation Scheme, which was not operational. The petitioner has also challenged the communication issued by the Assistant Superintendent Engineer on 28th December 2012, by which permission was granted for lift irrigation for cultivating 61.28 Hectare agricultural land, and permanently cancelling

the permission for lift irrigation in respect of 84.20 Hectare agricultural land granted to Amrutvahini Cooperative Water Supply Scheme. The petitioner has raised certain technical issues, trying to point out how the decisions would affect the supply of water, flowing through the natural course, to the agricultural land situated towards down stream and how the decision would benefit the agricultural lands situated towards up stream. According to the respondent Nos. 4 and 5, whose agricultural lands are situated towards the upstream, opposed the petition relying on the report of site inspection of Pravara river reach from Ozar pick up weir to Bhandardara dam, prepared by Ministry of Water Resources, Government of India.

3. By order dated 18th July 2013, this Court directed issuance of notices to the respondents. In the order dated 20th September, 2013 while granting adjournment on the request made by the learned Government Pleader, this Court recorded the submission made on behalf of the respondent No. 4 that the proposal for construction of retaining (profile) walls in the river beds was at approval stage. It appears that in

view of the statement made on behalf of the respondents, this Court had not passed any interim order, perhaps because it was felt at that stage that there was no urgency to pass interim order. Since then the matter is not heard for admission and interim orders. At the time of hearing, the learned Senior Advocate appearing for the petitioner, learned Senior Advocate appearing for the respondent Nos. 4 and 5 and learned AGP submitted that there is no progress in the work and status-quo as on 28th September, 2013 continues.

4. Considering the above facts and looking to the nature of controversy, specially that it is required to be dealt with by experts, we are not inclined to examine the controversy. The record shows that either side has not felt any urgency to move this Court for urgent hearing and disposal of this Public Interest Litigation.

5. Hence, we pass the following order:

ORDER

(i) The petition is disposed. It is clarified that we have not dealt with the issues raised in the petition.

(ii) The respondent authorities are at liberty to

proceed further in the matter, however, after getting fresh report from the concerned department/agency about necessity and viability of the scheme.

(iii) The concerned authority, before proceeding in the matter shall give vide publicity in the area which would be affected by the scheme and grant hearing to the person who approaches it, and consider their objections, if any.

[S.M.GAVHANE,J.]

[Z. A. HAQ,J.]