

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1044 WRIT PETITION NO.2932 OF 2022

LAHU KHANDU DESALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

1045 WRIT PETITION NO. 2959 OF 2022

JAYBHIM LAHU MORE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

1046 WRIT PETITION NO. 2962 OF 2022

USHABAI ARJUN MORE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

1047 WRIT PETITION NO. 2968 OF 2022

NARENDRA HIMMAT MORE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

1048 WRIT PETITION NO. 2975 OF 2022

SHANTILAL KASHIRAM MORE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
.....

1049 WRIT PETITION NO. 3020 OF 2022

SANTOSH ZIPA NIKALJE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...

...
Advocate for Petitioners : Smt. Vaishali B Suryawanshi
AGP for Respondents: Mr. S.K. Tambe

...
**CORAM : S. V. GANGAPURWALA AND
S. G. DIGE, JJ.**

DATE : 8th MARCH, 2022

PER COURT :-

1. Heard learned counsel for the petitioners and the learned AGP for respondents.
2. The petitioners are aggrieved by the show cause notices issued by the Sub-Divisional Officer seeking explanation from the petitioners with regard to the encroachment. The learned counsel submits that initially orders were passed by the Tahsildar and Commissioner, rejecting the applications of the petitioners for regularization. The petitioners approached the Honourable Minister. The Honourable Minister in his order passed in December, 2020 held that the petitioners are entitled for regularization of encroachment and set aside the orders of the Tahsildar and Commissioner, rejecting the applications of the petitioners for regularization. After the order of the Honourable Minister, the Tahsildar decided to calculate the amount as *Nazarana* to be paid by the petitioners. The petitioners paid the amount of *Nazarana* as determined by the Tahsildar. Now, again same dispute is sought to be react -up.
3. The learned AGP for respondents submits that the land on which encroachment was made, was the land of forest. The show cause notices were issued only for the purpose of making enquiry and no orders are passed. The Tahsildar, Sub-Divisional Officer or the Collector cannot sit over the order passed by the Honourable Minister. The Minister has already passed the order holding that the petitioners are entitled for regularization of the lands. Pursuant to the order passed by

the Honourable Minister the Tahsildar has calculated the amount payable by the petitioners as “*Nazrana*” for regularization. The petitioners paid the amount of *Nazarana* as contended by the petitioners. Again the same issue cannot be gone into until the order of the Honourable Minister holding the petitioners are entitled for regularization of the encroachment is in force.

4. In light of that, we pass the following order:

ORDER

(i) The respondents may make enquiry as it may deem fit, however, would not dispossess the petitioners or pass any adverse order with regard to the regularization of the encroachment of the petitioners until the order of the Honourable Minister holding that the petitioners are entitled for regularization, is in force.

(ii) In case, in future order of the Minister holding that petitioners are entitled for regularization, is reviewed, then further steps may be taken inconsonance with the order that may be passed.

(iii) Writ petitions are disposed of. No costs.

(S.G. DIGE)
JUDGE

(S.V. GANGAPURWALA)
JUDGE