

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6337 OF 2021

BHAUSAHEB PANDHARINATH RAUT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

AND
WRIT PETITION NO.7402 OF 2021

GOVIND S/O GULAB MUNGASE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.D.R.Markad, Advocate for the petitioners.

Mr.S.G.Sangle, AGP for respondent Nos. 1 to 3 and 5 to 7.

Mr.P.S.Patil, AGP for respondent Nos.1 to 3 and 7 in WP No.7402/2021.

**(CORAM : RAVINDRA V. GHUGE AND
S.G. DIGE, JJ.)**

DATE : APRIL 19, 2022

PER COURT :

1. The petitioners are before us seeking a direction in the nature of a writ of mandamus in order to command the respondents / authorities to initiate land acquisition proceedings in respect of land admeasuring 38R belonging to the petitioner in Gat No.271/3/A at Village Erandgaon, Tal.Shevgaon, Dist.Ahmednagar. Grievance is that the back waters of the Jaikwadi Dam submerge the land of the petitioners.

2. Leave to correct the description of respondent No.4. Correction be carried out forthwith.

3. In WP No.7402/2021, the petitioners are identically placed, except that they belong to villages Bhavinimgaon and Dahigaon-Ne, Tal.Shevgaon.

4. We find that the petitions are bereft of material details. Such cases are governed by the GR dated 21.09.2012. The State Government has a policy of considering the frequency of the lands being submerged in the back waters and if it is noticed that the back waters cause submersion of the lands frequently, the State Government can take a decision of acquiring the land. We are informed that the State Government also has a yardstick for considering the frequency of submersion in relation to the percentage of the storage level of the Jaikwadi Dam. We are further informed that if the back waters submerge agricultural fields even when the storage level of water has reached 50% or 60% of the capacity of the dam, such cases indicate higher frequency of submersion.

5. The petitioner was before this Court vide WP No.1191/2018. By order dated 21.02.2019, it was noted that there was only 19 percent water storage in the Jaikwadi dam. The respondents were directed to take a decision within 6 months as to whether the land of the petitioner deserves to be acquired.

6. In view of the above, both these petitions are disposed off with liberty to the petitioners to prefer representation setting out specific details as regards the frequency of submersion of their lands during particular rainy seasons and based on such specific information, respondent No.4 would consider the representation so as to arrive at a decision as to whether the case of the petitioners for acquisition could be considered.

7. We make it clear that such decision would be on the merits of the claim of the petitioners and we have not expressed any view on such claims.

8. In WP No.7402/2021, though respondent Nos. 4 and 5 whose assistance was necessary in this matter, have been served by Court

notice, they have chosen not to appear in this matter and have virtually declined to render assistance to the Court. We deem it appropriate to direct respondent No.4 Executive Engineer, Jaikwadi Irrigation Department, Kada Office, respondent No.5/Divisional Officer, Paithan, Jal-Vidhut Prakash Sinchan Bhavan, Jalna Road to deposit Rs.10,000/-, each from their salary account in this Court on or before 31.05.2022. Compliance of this order be reported to this Court.

(S.G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)