

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

**CRIMINAL WRIT PETITION NO.746 OF 2022  
WITH  
CIVIL APPLICATION NO.3079 OF 2022  
IN WP/746/2022**

Ramdas Suryabhan Khade,  
Age : 39 years, Occu: Agriculture  
R/o. Karhevadgaon,  
Tal. Ashti Dist. Beed.

... **PETITIONER**

**VERSUS**

1. The State of Maharashtra  
through its Chief Secretary  
Mantralay, Mumbai 400037
2. The Hon'ble Minister  
Department of Home Affairs,  
Government of Maharashtra  
Mantralay Mumbai 400037
3. The Principle Secretary  
Department of Home Affairs,  
Government of Maharashtra  
Mantralay Mumbai 400037
4. The Director General  
Anti-Corruption Bureau  
6<sup>th</sup> Floor, Sir Pochkhanvala Road,  
Worli Police Camp,  
Worli, Mumbai 400030.
5. The Superintendent of Police  
Anti-Corruption Bureau  
Old Tahsil Office Building,  
Juna Bazar, Naralibag  
Aurangabad 431001
6. The Dy-Superitendant of Police  
Anti-Corruption Bureau  
Near Civil Hospital, Beed.
7. The Police Sub-Inspector  
Anti-Corruption Department  
Beed.
8. The Police Inspector  
Police Station Ashti  
Tal: Ashti Dist. Beed.

9. The Collector, Beed  
Dist. Beed.
10. The Director,  
Enforcement Directorate (ED)  
Zone-II Office, Mumbai  
“Kaiser-i-Hind”  
Ground Floor, Currimbhoy Road,  
Ballard Estate, Mumbai – 400001.

... **RESPONDENTS**

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Advocate for Petitioner : Mr. Deelip Patil Bankar a/w. Mr. Abhishek Patil h/f.  
Mr. A.F. Naiknaware

Public Prosecutor for Respondent Nos.1 to 9 : Mr. D.R. Kale

Advocate for Respondent No.10 - U.O.I. : Ms. Sudha Chintamani

Advocate for Intervenor : Mr. Rajendra Deshmukh, Senior advocate a/w. Mr.  
Rajat P. Untwal i/b. Ms. Trupti Bhosale

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**CORAM : MANGESH S. PATIL AND  
ABHAY S. WAGHWASE, JJ.**

**DATE : 18.10.2022**

**ORDER (MANGESH S. PATIL, J.):**

We have heard the learned advocate for the petitioner, the learned Public Prosecutor as also the learned Senior Advocate Mr. Deshmukh for the intervenor.

2. The learned advocate for the petitioner Mr. Deelip Patil Bankar holding for Mr. Naiknaware submits that various properties of Devasthan and also belonging to Wakf have been attempted to be misappropriated by taking aid of the revenue officers. In respect of couple of Wakf properties even FIRs have been registered. The revenue authorities have indulged in rampant corruption and fabrication in suitably mutating the revenue record and facilitating illegal disposition of such properties. Unless a threadbare investigation is carried out the crime cannot be unearthed. For the reasons

best known to the police machinery, no prompt action is being taken which leaves the petitioner with no alternative but to approach this Court soliciting the directions for registration of FIR and its investigation in accordance with the decision in the case of **Lalita Kumari Vs. Govt. of U.P. & Ors.; (2014) 2 SCC 1.**

3. Learned advocate also takes us through the papers to demonstrate that *prima facie*, some individuals hand-in-gloves with the revenue authorities have managed to transfer the properties. For instance he would point out a copy of the sale deed dated 16.07.2020 wherein the purchaser, one of the vendors and even the consenting party is the same individual. He would also point out to us the copies of the orders passed by the revenue authorities in various proceedings styled as proceedings under the provisions of the Hyderabad Abolition of Inams and Cash Grants Act, 1954. He would particularly point out to us that the roznamas and signatures of the individuals on the proceedings filed before the revenue authorities have a startling similarity and *ex facie* appear to have been concocted by preparing them and signing those at the same time. He would submit that the stand of the respondent State in the affidavit-in-reply informing that departmental proceedings have been initiated against those two revenue officers corroborates the petitioner's allegations and are sufficient to issue a direction to the police for carrying out a detailed investigation.

4. The learned Public Prosecutor would submit that the State is

taking initiative to protect the Devasthan and Wakf properties. Even in two cases FIR has been registered. Those were registered when an officer of the Wakf Board had come forward to lodge the FIR. If some authorized person of a Devasthan comes forward and lodges a report, the police are duty bound to register the FIR and carry out the investigation. However, the petitioner has nothing to do with the alleged misappropriation of the properties and has no *locus standi*.

5. Learned Public Prosecutor would further submit that the petitioner could have filed a private complaint or solicited a direction of the Magistrate under Section 156(3) of the Code of Criminal Procedure but he is finding a shortcut and wants to fire from the shoulders of this Court.

6. Lastly, the learned Public Prosecutor would submit that already inquiry was initiated against the two revenue officers and necessary steps are being taken by the State to get all these orders set aside. One of the revenue officers has been compulsorily retired and the other has been put under suspension.

7. Learned Senior advocate Mr. Deshmukh for the intervenor would submit that the petitioner is settling a political score. He has no interest otherwise in protecting the properties of Devasthan and Wakf. He belongs to a political party and wants to somehow rope in his adversaries and the Court should not play in his hands.

8. The petitioner is complaining about rampant illegalities and even commission of offences in siphoning the Devasthan and Wakf

properties. It is being alleged that some revenue officers hand-in-gloves with the individuals have managed to misappropriate these properties under the colourable exercise of the powers vesting in the revenue authorities.

9. In the affidavit-in-reply filed by the officer of the rank of Deputy Collector, a stand has been taken which according to us halfheartedly admits the illegalities in the orders passed by the two revenue officers. It specifically narrates as to what steps are being taken to get the orders passed by them corrected, a statistic is provided therefor. Pertinently, in two matters even the FIRs have been registered.

10. It is further mentioned in paragraph No.7 of the reply that the police authorities are undertaking an inquiry/investigation separately. It also mentions about one revenue officer of the rank of the Deputy Collector having been suspended and the other revenue officer having been compulsorily retired. However, as of now, neither any report pursuant to the investigation being done by the police officer is produced on the record nor are there the orders passed for suspension of an officer and the order regarding compulsory retirement of the other officer. The learned Public Prosecutor on instructions submits that the reason for suspension of the officer and compulsory retirement of the other officer covers even the alleged misdeeds referred to in the petition.

11. Surprisingly, even the officer of the rank of Deputy Collector in paragraph No.10 has been bold enough to submit that the petitioner has an alternate and efficacious remedy and could have filed a proceeding before

the Magistrate under Section 156 (3) of the Code of Criminal Procedure.

12. As has been laid down in the matter of **Lalita Kumari** (supra), whenever a citizen approaches the police machinery and reports commission of a cognizable offence the FIR has to be registered. It has laid down various guidelines in paragraph No.120.

13. In tune with these guidelines, the learned Public Prosecutor submits that pursuant to the guideline No.6 a preliminary inquiry is being conducted and depending upon its result necessary steps would be taken but he is unable to state as to within how much time the decision would be taken.

14. When the respondent State was expected to file an affidavit-in-reply to the petition, it was expected that the affidavit would address the points being raised in the petition and even respond to the specific prayers. According to us the affidavit does not in substance constitute a reply. It only narrates the steps being taken by the State without committing itself of any possible action on the lines expected by the petitioner in his prayer clauses.

15. We are appalled by the fact that the affidavit even expects the petitioner to take recourse to the provision of Section 156 (3) of the Code of Criminal Procedure which in law would only result in lodging of the FIR, which is one of the prayers of the petitioner.

16. We are unable to comprehend as to why in spite of the aforementioned facts and circumstances the State machinery is reluctant to register the FIR and to reach to a logical and legal conclusion. If at all the

investigating officer pursuant to the investigation to be carried out after registration of the FIR does not reach a conclusion about commission of any crime, it is always open for him to submit a report under Section 169 of the Code of Criminal Procedure. If he reaches the conclusion about commission of crime he is supposed to file a report under Section 173.

17. In the departmental inquiry/investigation, the State has found that as many as in 94 orders passed by the two revenue officers require intervention to rectify those. Even a decision to take departmental action against them in the form of a major penalty of compulsory retirement and suspension, for the time being, has been taken. If this is so we are surprised by the reluctance of the State to register the FIR and carry out the investigation.

18. In view of the above, we allow the Writ Petition. The complaint of the petitioner dated 13.01.2022 addressed to the Deputy Superintendent of Police, Anti Corruption Bureau, Beed shall be registered as an FIR and the investigation be carried out expeditiously. We may clarify that our observations shall not influence the investigation.

19. So far as the other prayers are concerned, we are not inclined to record any opinion and it would always be open for the petitioner to take recourse to the law in case of need.

20. Application for intervention is disposed of.

**(ABHAY S. WAGHWASE, J.)**

**(MANGESH S. PATIL, J.)**