

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

WRIT PETITION NO.8299 OF 2019

**BALAJI MAROTI PATIL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the Petitioners : Shri Dhanure Bramhanand M.
AGP for Respondents 1 to 4 : Shri S.G. Sangle
...

**CORAM : RAVINDRA V. GHUGE
&
S.G. DIGE, JJ.**

DATE :- 05th May, 2022

Per Court :-

1. Considering the disputed questions involved, we are unable to exercise our writ jurisdiction under Article 226 of the Constitution of India.

2. The learned AGP points out from the affidavit in reply that the Zilla Parishad road was taken over only for the purpose of improving the road, it's quality and it's strengthening. There has been no new road or expansion of the road. Improvisation of the road is within the existing Right of Way (RoW) of 12 meters. They do not require to acquire anybody's land.

3. In Writ Petition No.5250/2020 along with connected petitions, this Court has delivered the judgment on 03.07.2021 in the matter of ***Bhagauji and others vs. State of Maharashtra and others, (2021) 5 AIR Bom R 163***, wherein, this Court has observed in paragraph 35 as under :-

“35. *Having regard to the above reasons and discussion, we arrive at a conclusion to issue certain directions to the respondents/ authorities regarding measurement of the road in question at respective villages in presence of both the sides. With these reasons, we proceed to pass the following order :-*

O R D E R

- (I) *The respondents-authorities shall conduct measurement of National Highway No. 753-H (previously known as State Highway No. 176) at villages, Shahapur, Dadegaon, Dhakalgaon and Math Tanda through appropriate authority in presence of both the sides, as expeditiously as possible and preferably within four months.*
- (II) *At the time of measurement, if the width of the road at respective villages is found to be 30 meters, there shall not any question of acquisition of adjacent lands of the petitioners.*
- (III) *If at the time of measurement, the width of the road is found to be less than 30 meters, certainly, the State and Central authorities, shall follow due process of law in acquiring the land to the extent required by them.*
- (IV) *The exercise of measurement of road at above said villages shall be undertaken under the supervision of District Collector, Jalna in order to avoid any controversy.*
- (V) *With the above directions, these writ petitions stand disposed of.*
- (VI) *Civil Application No. 5553/2020 in Writ*

Petition No. 5250/2020 and Civil Application No. 3480 in Writ Petition No. 7270/2020 stand allowed in terms of prayer clause (B) therein.

(VII) In view of disposal of writ petitions, civil application No. 5136/2020 in writ petition No.5250/2020 and civil application No. 5114/2020 in writ petition No. 4937/2020 also stand disposed of.

(VIII) No order as to costs.”

4. In the instant case, the issue is as regards 12 meters width of RoW.

5. In view of the above, this Writ Petition is disposed off with the following directions :-

(a) The respondent authorities shall conduct the measurement of the Mukhya Mantri Gram Sadak Yojana on State Highway No.245, location being at Gojegaon- Kotgyal-Kotgyalwadi- Savarmal segment, Taluka Mukhed, District Nanded, in the presence of all the parties, as expeditiously as possible and by issuing notices to the stakeholders.

(b) After the measurement, if the width of the road at the place where the petitioners allege acquisition of their lands, is found to be 12 meters, there would be no issue of acquisition of any adjacent lands of the petitioners.

(c) If the measurement reveals that the original width of

the road is less than 12 meters as per the revenue records, the appropriate authority shall follow the due process of law in acquiring the land to the extent the same is required.

(d) Exercise of measurement of the road at the villages at issue, shall be undertaken under the supervision of the District Collector, Nanded, in order to avoid any controversy.

kps (S.G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)