

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
WRIT PETITION NO.5098 OF 2022**

Gopal /o Ganpatrao Mahalle,
Aged 42 years,
Occupation – Agriculturist,
R/o Alegaon, Tq. Patur,
Dist. Akola.

... Petitioner

Versus

1. The Collector, Akola,
Tq. & Dist. Akola.
2. Sarpanch, Gram Panchayat,
Alegaon, Tq. Patur, Dist. Akola.
3. Village Development Officer,
Gram Pachayat, Alegaon, Tq. Patur,
Dist. Akola.
4. Sau. Sapana Ravindra Murtandkar,
Aged 42 years,
Occupation – Housewife &
Membr of Gram Panchayat,
Alegaon,
T/o Alegaon, Tq. Patur,
Dist. Akola.
5. Sanjay S/o Mansaram Gawande,
Aged about 36 years,
Occupation – Agriculturist and Member
of Gram Panchayat, Alegaon,
R/o Alegaon, Tq. Patur, Dist. Akola.
6. Ravindra Damodhar Murtandkar,
Aged about 50 years,
Occupation – Agriculturst,
R/o Alegaon, Tq. Patur,
Dist. Akola.
7. Smt. Nalini Prabhakar Joshi,
Aged about 74 years,
Occupation – Labour,
R/o Alegaon, Tq. Parut, Dist. Akola.

8. Gopal Prabhakar Joshi,
Aged about 58 years,
Occupation – Labour,
R/o Alegaon, Tq. Patur, Dist. Akola.

9. Santosh S/o Prabhakar Jshi,
Aged about 54 years,
Occupation – Labour,
R/o Alegaon, Tq. Patur, Dist. Akola.

... Respondents

Shri S.D. Chopde, Advocate for Petitioner.

Smt. K.S. Joshi, Additional Government Pleader for Respondent No.1.

CORAM : SUNIL B. SHUKRE & G.A. SANAP, JJ.

DATE : 29th SEPTEMBER, 2022

ORAL JUDGMENT (PER SUNIL B. SHUKRE, J.) :

1. We do not think it necessary to grant leave to the petitioner to add additional parties in this petition, as basically by the subsequent development, no prejudice appears to have been caused to the petitioner. Civil Application No.1997 of 2022 is, therefore, rejected.

2. Rule. Rule is made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

3. The show cause notice issued by the respondent No.1-Collector, Akola, dated 12-8-2022 is questioned in this petition for its legality. We find that by the impugned show cause notice, whereby the petitioner has been called upon to give his explanation regarding his being party to the resolution granting permission to a Shetkari Bhavan on the land allotted to a private person or entity, no prejudice

is caused to the petitioner, as ultimately the petitioner is given an opportunity to explain as to why an action, as contemplated under Section 39(1) of the Maharashtra Village Panchayats Act, 1958 (for short, 'the said Act'), should not be taken against him. It is the submission of the learned counsel for the petitioner that the Collector is not the competent authority to proceed under Section 39(1) of the said Act and it is the Commissioner of the revenue who is the competent authority. But the impugned show cause notice does not indicate in any manner that the Collector has been usurping the powers of the Commissioner of revenue. All that the Collector says that in case the explanation is not found satisfactory, she would propose an enquiry to be held in accordance with the provisions made under Section 39(1) of the said Act. Therefore, at this stage, as stated earlier, no prejudice is caused to the petitioner.

4. Then, there is one more aspect of the matter which requires consideration by this Court. There is a serious complaint made against the petitioner, wherein the present occupier of the land in question has alleged that without any authority in law, the petitioner has granted permission to construct a Shetkari Bhavan on the private land of this person. There is no document placed on record by the petitioner which would show that the land in question is in possession of the Gram Panchayat or the State Government. The land in

question, from the documents placed on record by the petitioner, is prima facie seen to be allotted to one Maroti Deosthan and this is a document filed by the petitioner himself. Going by this document as well, we find that by this document, the case of the petitioner has become even weaker and, therefore, now the petitioner would have to justify his action regarding grant of permission to construct a Shetkari Bhavan on the land in occupation of a private person or entity. Therefore, this aspect of the matter requires a proper enquiry to be held in this case.

5. In view of above observations, the petition has no merit and the same stands dismissed. Rule is discharged. No costs.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)

Lanjewar