

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

WRIT PETITION NO. 6714 OF 2023

Sanjay Prabhu Rathod and others .. Petitioners

Versus

Union of India and others .. Respondents

Shri Vijay Y. Patil, Advocate for the Petitioners.

Shri V. M. Kagne, A.G.P. for the Respondent Nos. 2 to 7.

WITH

WRIT PETITION NO. 6715 OF 2023

Jakin Konashi Pawar and another .. Petitioners

Versus

Union of India and others .. Respondents

Shri Vijay Y. Patil, Advocate for the Petitioners.

Shri V. M. Kagne, A.G.P. for the Respondent Nos. 2 to 7.

**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 21ST JUNE, 2023.

PER COURT :

1. In both these matters, the petitioners have put forth identical prayers. Prayer clauses B, C and D in WP No. 6714/2023 read as under :-

"B. To issue writ of mandamus or any other appropriate writ direction in the like nature to decide the proposal

pending with respondent No.3, of the petitioners in respect of regularization of the agricultural forest land to the petitioners.

C. To issue a writ of mandamus or any other appropriate writ, order or directions in the like nature, to restrain the respondent Nos. 4 to 11 for not to take coercive action for removal of encroachment made by the petitioners and further direct to the respondents to consider and take a decision for regularization of the agricultural land over the forest land in view of the GR dated 27.12.78, 20.12.95 and GR dated 11.11.2016, 28.11.2022 and the policy of the Government.

D. Pending hearing and final disposal of this writ petition, to restrain the respondent No. 4 to 11 for not to take coercive action for removal of encroachment made by the Petitioners and further direct to the Respondents to consider and take a decision for regularization of the agricultural land over the forest land in view of the GR dated 27.12.78, 20.12.95 and GR dated 11.11.2016, 28.11.2022 and the policy of the Government may kindly be stayed."

2. The petitioners contend that in view of the Government Resolutions dated 27.12.1978, 11.11.2016 and 28.11.2022, with regard to regularization of encroachment made on Government waste lands, Gairan lands and forest lands, action in the nature of removal of the encroachment made by these Petitioners, cannot be resorted to. Reliance is placed upon Section 4 and 5 of

the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and it is contended that the proposals pending under this Act with the Sub Divisional Officer, Bhusawal with regard to all these Petitioners, needs to be considered in the light of the 2006 Act. Their earlier proposals submitted in 2018, have been lost as per the remarks of the S.D.O. Bhusawal vide communication dated 19.09.2018. Hence, new proposals have been tendered. These pending proposals need to be decided.

3. Let the competent authorities consider the pending proposals of the petitioners by following the due procedure laid down in Law and in terms of the Government Resolutions applicable and the provisions of the 2006 Act. If the Act provides for a personal hearing to these petitioners at a particular stage in the matter, the said provisions shall be scrupulously followed. Let this exercise be completed within a period of 120 days from today. Taking into account the provisions of the 2006 Act, we are protecting the Petitioners against coercive action, for a period of 120 days, only if it is initiated without following the due process of Law.

4. The learned Advocate for the Petitioners submits that the Various authorities, by relying upon Section 26 of the Indian Forests Act 1927, have resorted to coercive steps and bullocks, bullock carts or agricultural equipments used for agricultural activities, are being seized/ confiscated. If this is so, we permit

these Petitioners to make an appropriate application for the release of such livestock/agricultural equipments etc. before the appropriate authority. If such an application is tendered within 15 days, the same would be decided within 15 days thereafter.

5. Considering the above directions, we do not find it appropriate to keep these petitions pending. **All these petitions are, therefore, disposed off.**

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

bsb/June 23