

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 WRIT PETITION NO.7504 OF 2023

BALU GARDA BARELA AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

...

Advocate for Petitioners : Mr. Narwadkar Mrigesh D.
AGP for Respondents/State : Mr. P.K. Lakhotiya

...

CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.
DATE : 12th July, 2023

PC. :-

1. The Petitioners have put-forth prayer clause-B, C & D as under:

“B. By appropriate Writ, order or direction, the Respondents be directed to accept the fresh Forest Rights Claims of the petitioners as per Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Rules thereof. Furthermore the respondents be directed not to dispossess/evict the petitioners from the Forest Land which they are occupying since generations.

C. By appropriate Writ, order or direction the Respondents be directed to verify the claims of the petitioners as per Rule 12 and Rule 12-A of the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007.

D. Pending hearing and final disposal of this Writ Petition the Respondent Authorities may kindly be restrained from taking any coercive action against the Petitioners.”

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 District Collector, Jalgaon with regard to all these Petitioners, needs to be considered in the light of the 2006 Act.

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 against action initiated without following the due process of Law.

4. In view of the above, **this petition is disposed off.**