

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

941 WRIT PETITION NO.9669 OF 2017

SATTAR MAHBOOBSAB MANIYAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Ms P.G. Sontakke a/w Mr. G K
Sontakke

AGP for Respondents: Mr. P K Lakhotiya
Advocate for Respondents nos.3,4 : Mr. V.D. Hon Sr. Counsel i/
b Mr. A V Hon,

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WITH
WP/11572/2017

WITH
CA/7863/2019 IN WP/11572/2017

ALAKH S/O MOHD ALI KHAN PATHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS.

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Mr. S.A. Deshmukh advocate for petitioners.
AGP for Respondents: Mr. P K Lakhotiya
Advocate for Respondents nos.3,4 : Mr. V.D. Hon Sr. Counsel i/
b Mr. A V Hon,

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CORAM : NITIN W. SAMBRE & S. G. CHAPALGAONKAR, JJ.
Dated: May 03, 2023

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PER COURT :-

1. In the earlier round of litigation i.e. writ petition No.4390 of 2010, this Court vide order dated 18th March, 2011 made following observations :-

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“1. Mr. Jamalpurkar, learned counsel for the petitioner has placed on record a letter dated 1.1.2011, issued after filing of the present Writ Petition. We have perused the said letter. The letter is taken on record. It appears that the Municipal Council, Latur intends to rehabilitate all the persons who have shifted their shops to the alternative site at Ganjgolai, Latur by providing them permanent accommodation. In view thereof, nothing further survives in this writ petition. Hence, the writ petition is disposed of.”

2. The only correction in the aforesaid order by consent of the parties warrants alternative site at “Ganjgolai, Latur” be read as “alternative site at Gandhi Maidan”.

3. It is not in dispute that Hawkers license is provided by the respondent/Municipal Corporation to the petitioners and being renewed from time to time which prompted to continue their business activities at Ganjgolai, Latur.

4. The fact about area of Ganjgolai connects more than 13 roads is not in dispute. The same appears to be a congested area and appears to be a commercial hub. There is no scope either for expansion of width of the road or to accommodate the hawkers in the said area. Petitioners, by virtue of said order, were rehabilitated to Gandhi Maidan since they are not

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getting enough space, they are required to accommodate back at Ganjgolai.

5. By inviting our attention to the Resolution dated 22 January, 2014 passed by the Respondent Municipal Corporation, wherein it was resolved to rehabilitate present petitioners at Ganjgolai area only. It is claimed that legitimate expectation is created in favour of the petitioners of getting rehabilitated in the Ganjgolai area.

6. As far as aforesaid submissions are concerned, the fact remains that the aforesaid resolution goes contrary to the orders passed by this Court on 18th March, 2011 in WP 4390 of 2010 (cited supra).

7. The respondents/Municipal Corporation remained sensitive to the plight of the petitioners and depending for their livelihood based on the earnings out of their business of has renewed hawking license till this date.

8. In response to the Court's query, the learned Senior counsel Mr. Hon, on instructions from the Commissioner of Municipal Corporation Mr. Babasaheb Pundlikrao Manohare

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states that, the petitioners shall be permitted to continue their business on Ausa road, a newly developed area, where Hawking Zone is already marked in the Ausa Road Area and it shall be open for the petitioners to shift their business in the said area.

9. The statement made by the respondents/Municipal Commissioner through the learned Senior Counsel is accepted and taken on record.

10. As a sequel of above, we expect that the respondents/Municipal Commissioner to clear the entire Hawking Zone area in the Ganjgolai, Latur within a period of Fortnight and shall submit the compliance report to this Court within a period of four weeks from today.

11. In view of above, this Court is of the view that there is no legal or absolute right in favour of the petitioners to seek their rehabilitation where there is hardly any space available for respondents/Corporation in the Ganjgolai to rehabilitate the petitioners. As such, both these petitions stand dismissed. Pending Civil application stands disposed off.

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12. Mr. Babasaheb Pundlik Manohare, the Municipal Commissioner, Latur has expressed his regret and remorse for non-compliance of the orders of this court, by filing affidavit and for failure on his part to remain present before this Court. He has already reported compliance by placing on record the affidavit-in-reply, which has led to disposal of the petitions. So as to express his remorse, he has volunteered to pay an amount of Rs. 51,000/- towards costs, to be deposited with the High Court Bar Library. A receipt thereof be produced on record within a period of 72 hours.

13. If the receipt, as directed above regarding payment of costs is produced on record, the Contempt notice issued to Shri Babasaheb Pundlikrao Manohare shall stand discharged, on an assurance that in future, he shall be diligent in responding and complying with the orders of this Court. The contempt notice, as such, stands discharged subject to aforesaid compliance.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)

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