

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

WRIT PETITION NO.11001 OF 2022

1. Dr. Ravindra Kashinath Ghagare,
age 42 years, Occ. Farmer,
Kanadgaon, Tq. Rahuri,
District Ahmednagar.
2. Ramdas Sabaji Mane,
age 41 years, Occ. Farmer,
Babhulgaon, Tq. Rahuri,
Dist. Ahmednagar.
3. Dr. Dnyaneshwar Sahebrao Aghad,
age 43 yrs, Occ. Farmer,
Bhargav Nandur, Tq. Rahuri,
Dist. Ahmednagar.
4. Bapu Bhagwat Jagtap,
age 46 yrs, Occ. Farmer,
Gadakwadi, Tq. Rahuri,
Dist. Ahmednagar.
5. Tukaram Ananda Malvade,
age 49 yrs, Occ. Farmer,
Taharabad, Tq. Rahuri,
Dist. Ahmednagar.
6. Somnath Namdev Mhase,
age 41 yrs, Occ. Farmer,
Chedgaon, Tq. Rahuri,
Dist. Ahmednagar.
7. Kishore Bhagwat Gagare,
age 45 yrs, Occ. Farmer,
Tambhere, Tq. Rahuri,
Dist. Ahmednagar.
8. Mahesh Bhausahab Zodge,
age 46 yrs, Occ. Farmer,
Nagar Devale, Tq. Rahuri,
Dist. Ahmednagar.

9. Vishnu Ramrao Ghorpade,
age 48 yrs, Occ. Farmer,
Shingave Keshav, Tq. Rahuri,
Dist. Ahmednagar.
 10. Sambhaji Kisanrao Palve,
age 50 yrs, Occ. Farmer,
Kolhar, Tq. Rahuri,
Dist. Ahmednagar.
 11. Rahul Bajirao Gavali,
age 39 yrs, Occ. Farmer,
Miri, Tq. Rahuri, Dist. Ahmednagar.
 12. Adinath Balasaheb Tanpure,
age 38 yrs, Occ. Farmer,
Vaghacha Akhada, Tq. Farmer,
Dist. Ahmednagar.
 13. Dr. Rajendra Suryabhan Bankar,
age 39 yrs, Occ. Farmer,
Bhrmhani, Tq. Rahuri,
Dist. Ahmednagar.
 14. Sunil Bhanudas More,
age 41 yrs, Occ. Farmer,
Aradgaon, Kanadgaon,
Tq. Rahuri, Dist. Ahmednagar.
 15. Vijay Ashok Tamner,
age 43 yrs, Occ. Farmer,
Tamnar Akhada, Tq. Rahuri,
Dist. Ahmednagar.
 16. Balasaheb Somnath Latke,
age 50 yrs, Occ. Farmer,
Khadambe Budruk,
Tq. Rahuri, Dist. Ahmednagar.
- Petitioners

VERSUS

1. The State of Maharashtra,
through it's Chief Secretary,
Public Works Department,
Mantralaya, Mumbai-32.

2. The Secretary,
Gramvikas and Panchayat Raj Vibhag,
State of Maharashtra,
Mantralaya, Mumbai.
3. The Secretary,
Public Works Department,
State of Maharashtra,
Mantralaya, Mumbai. .Respondents

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Mr. V. D. Sapkal Senior Advocate i/b Mr. Bhushan Raut
Advocate for Petitioners

Mr. A. R. Kale, AGP for Respondent Nos.1 to 3

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**CORAM : NITIN W. SAMBRE &
S. G. CHAPALGAONKAR, JJ.**

DATE : March 13, 2023

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JUDGMENT :- (PER S. G. CHAPALGAONKAR, J.)

1. Heard.
2. **RULE.** Rule made returnable forthwith. By consent of the parties, the matter is taken up for final hearing.
3. The petitioners are the residents of rural area from Rahuri Taluka, District Ahmednagar. They are mainly engaged in agricultural and labour activities, dependent upon the seasonal cropping pattern.
4. The petitioners have approached this Court under Article 226 of the Constitution of India, thereby raising the challenge to the impugned Government Notification dated 20/07/2022 issued by the Public Works Department as well as Government Resolution dated 12/10/2022 being arbitrary and violative of

Article 14 and 21 of the Constitution of India. The contention of the petitioners is that respondent No.1 under the scheme for development of roads sanctioned 31 works of roads in Taluka Rahuri, District Ahmednagar. The said sanction was preceded by the survey regarding condition of the roads and the acute necessity of the residents. All such roads are presently in a bad shape and the users are facing great difficulties in approaching the taluka place. The petitioners contend that on 06/05/2022, the development works were sanctioned under (account head of 2515 1238). The budgetary provisions was made. Similarly, vide another Government Resolution dated 31/03/2022, similar development works were sanctioned. The contention of the petitioners is that total 31 roads are sanctioned under the aforesaid Government Resolutions and the budgetary provisions are made as per annual financial statement in terms of Article 202 of the Constitution of India.

5. The petitioners contend that on 12/10/2022, the State of Maharashtra in its Rural Development Department abruptly cancelled the development works which were granted administrative and technical sanction with budgetary allocation. The said Government Resolution stipulates that pursuance to the Government instructions dated 18/07/2022 and 21/07/2022 issued under signature of the Chief Secretary, Maharashtra State, the development works under (account head of 2515 1238) in which administrative sanctions are granted after 01/04/2021 are cancelled.

6. According to the petitioners, the action on the part of the respondents is arbitrary, capricious and violative of Article 14

of the Constitution of India. Similarly, when budget is sanctioned by the State legislature in terms of Article 202 and 204 of the Constitution of India, the State executive cannot bypass the wish of legislature. The action on the part of respondents superseding the decision of the legislature is contrary to the constitutional scheme. According to the petitioners, the impugned Government Resolution, thereby cancelling the works which were already sanctioned is on account of political reason due to change in the Government.

7. Learned Senior Advocate Mr. V. D. Sapkal appearing for the petitioners would submit that abrupt action on the part of the Government would hamper the development works which are approved and sanctioned for undeveloped rural areas. He would submit that the respondents have no explanation that would justify the abrupt action. He would rely upon the Article 162, 166 (3), 202 and 204 of the Constitution of India to buttress his submission that the development projects/works approved and sanctioned could not have been cancelled or suspended.

8. Learned Senior Advocate Mr. V. D. Sapkal appearing for the petitioners placed reliance on the respective judgments delivered by this Court in Writ Petition No.10174 of 2022 (Jayaji s/o Kisan Deshmukh and others Vs. State of Maharashtra and others) dated 27/01/2023, Writ Petition No.9421 of 2022 with connected petitions (Pooja w/o Kalyan Sapate Vs. State of Maharashtra and others) dated 03/03/2023 and Writ Petition No.9438 of 2022 (Chandrakant @ Raju s/o Ramakant Navghare Vs. State of Maharashtra and others)

dated 03/03/2023. They would also place their reliance on a reported judgment of this Court in the matter of Charan Sovinda Waghmare Vs. State of Maharashtra and others dated 13/04/2012, in Writ Petition No.1698 of 2011.

9. Learned Assistant Government Pleader Mr. A. R. Kale appearing for respondent No.1 would submit that a conscious decision has been taken to review the development works. It was necessary to bring correction in the budgetary allocation as well as priorities as regards to the development works. The Government has every right to take a policy decision and also endorse political ideology in execution of government business. He would submit that after taking review of the budgetary provisions as well as priorities of various works, the Government has already continued the works relating to construction of buildings and bridges. He would submit that the petitioners have no legal or constitutional right to invoke the jurisdiction of this Court. The present writ petition is not filed as public interest litigation. The grievance sought to be address by the petitioner cannot be entrained in the writ petition filed by an individual.

10. We have appreciated the submissions advanced by the learned Advocates appearing for the respective parties. It is evident that on 06/05/2022, the State of Maharashtra in its Gramvikas Panchayat Raj Department sanctioned the development works under (account head 2515 1238) for providing basic facilities in the rural areas and budget allocation was made. A similar Government Resolution was also issued on 31/03/2022. However, the impugned

Government Resolution dated 12/10/2022 came to be issued by which all the development works which were sanctioned from 01/04/2021 onwards, but the work orders were not issued or the execution of work has not been commenced are cancelled.

11. On 29/06/2022 the then Chief Minister of Maharashtra State resigned. On next evening, new Chief Minister assumed his office. The Chief Secretary issued a communication dated 20/07/2022 under instruction of the Chief Minister. It has been marked to Additional Secretary/Principal Secretary of all ministries. It stipulates that the development projects sanctioned w.e.f 01/04/2021 under various Government schemes shall be stayed. It stipulates that tenders issued after 01/04/2021 in which work orders are not issued or where work orders are not given effect, shall remain stayed. The information regarding all such works was called by the Government through various communications and the Government Resolutions under various departments of the State of Maharashtra are issued to stay the development works. The impugned Government Resolutions in the present Writ Petitions are also sequel to the aforesaid decisions.

12. The writ petitions challenging similar Government Resolutions and communications issued post change of the Government on 30/06/2022 were subject matter before this Court in Writ Petitions Nos.9438 of 2022, 9421 of 2022, 9422 of 2022 and 10174 of 2022, as well as Writ Petition No.430 of 2023 (Ramesh Annaso Todkar Vs. State of Maharashtra others) (at Principal Seat at Bombay). This Court after considering the

constitutional scheme flowing from Article 154, 160 and the rules of business framed for convenient transaction of the business of the Government, allocation of business amongst the ministers, quashed similar government decisions by which the development works were either stayed or suspended.

13. We have considered the submissions advanced on behalf of the respondent-State in the present case. We find that the justification to impugned action that has been sought to be offered in the present matters is similar to that was put forth in the writ petitions referred above. This Court for detailed reasons recorded in the judgments referred (*supra*) rejected such defense/justification offered respondents. If the impugned decisions were mapped by the exigencies of the State, those could have been well explained before us. However, except general reason regarding intention of new government to review of development works and rearrange budgetary allocation in tune of ideology, no particulars are stated before us. We are of the considered view that State is under obligation to undertake beneficent of schemes and development projects for achieving public good. Political consideration always to be kept at bay by political executives and welfare schemes / development projects undertaken by the erstwhile Government must be continued even on change ruling party. Unfortunately, no sooner there was change in the Government on 30th June, 2022 various development works which were having administrative and technical sanctions along with requisite budgetary provisions are halted by issuing impugned Government Resolutions and communications. This Court finds that impugned Government Resolutions sans

justifiable reasons for withholding of the development works. The inference deducible is that the impugned decisions are arbitrary, capricious and fails to pass test of reasonableness under Article 14 of constitution of India.

14. For the reasons recorded above, we are of the considered view that development works which were having administrative and technical sanctions along with requisite budgetary provisions need to be protected and directions are required to be issued to respondents to execute the works, thereby quashing and setting aside the impugned Government Resolution dated 12/10/2022 issued by the respondents. Resultantly, we proceed to pass following order:

ORDER

(A) Writ Petition is partly allowed.

(B) The impugned Government Resolution dated 12/10/2022 is hereby quashed and set aside.

(C) The Respondents are directed to undertake the development works or activities in pursuance of the Government Resolutions dated 06/05/2022 and 31/03/2022 which are already bestowed with administrative and technical sanctions with budgetary allocation.

(D) Rule is made absolute accordingly.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)