

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

WRIT PETITION NO.11006 of 2022

1. Sandip Shankarrao Nikam,
age 38 yrs, Occ. Farmer,
R/o Katrad, Tq. Rahuri,
Dist. Ahmednagar.
2. Sunil Bhanudas More,
age 41 yrs, Occ. Farmer,
r/o Aradgaon, tq. Rahuri,
Dist. Ahmednagar.
3. Babasaheb Laxman Bhite,
age 45 yrs, Occ. Farmer,
r/o Vambori, Tq. Rahuri,
Dist. Ahmednagar.
4. Sachin Sonyabapu Shinde,
age 42 yrs, Occ. Farmer,
r/o Varshinde, Tq. Rahuri,
Dist. Ahmednagar.
5. Tukaram Ananda Malvade
age 50 yrs, Occ. Farmer,
r/o Tahrabad, Tq. Rahuri,
Dist. Ahmednagar.
6. Dr. Rajendra Suryabhan Bankar,
age 39 yrs, Occ. Farmer,
r/o Brahmani, Tq. Rahuri,
Dist. Ahmednagar.
7. Milind Ganpatrao Anap,
age 42 yrs, Occ. Farmer,
r/o Songaon, Tq. Rahuri,
Dist. Ahmednagar.
8. Sandip Balasaheb Dushing
age 43 yrs, Occ. Farmer,
r/o Umbre, Tq. Rahuri,
Dist. Ahmednagar.

Petitioners

VERSUS

1. The State of Maharashtra,
through it's Chief Secretary,
Public Works Department,
Mantralaya, Mumbai
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 Counsel i/b Mr. Bhushan Raut Advocate
for Petitioners

Mr. A. R. Kale, AGP for Respondents

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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. The network of roads and means of communications are minimal in the rural area. The majority of the population is 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 challenge to the impugned Government Notification dated 20/07/2022 issued by the Public Works Department being arbitrary and violative of Article 14 and 21 of the Constitution of India. The contention of the petitioners is that they are concerned with 8 major roads. The condition of such roads is worsened or need of such roads is identified by the survey. The contention of the petitioners is that considering the need of such roads, the estimates of expenditure were prepared and presented in annual financial budget to Maharashtra Legislature in the month of March-2022.

5. The petitioners contend that on 20/07/2022, suddenly the Deputy PWD, Maharashtra State issued communication in reference to the communication 18/07/2022 issued by the Chief Secretary stating that the development works in which tender notices are yet to be issued or tender process is not completed, shall be stayed. According to the petitioners, due to abrupt action on the part of the respondents, the development works in respect of 8 major roads which are the subject matter of the petition have been stayed.

6. Learned Advocate Mr. Bhushan Raut appearing for the petitioners would submit that abrupt action on the part of the Government would hamper the development works which are already approved and sanction for Rahuri Taluka. He would submit that the respondents have no explanation that would justify abrupt cancellation/suspension of the development works. He would submit that the works which are received

administrative sanction and budgetary provisions are made could not have been cancelled. He would submit that the impugned action is contrary to the constitutional scheme as well as the rules of business framed under Article 166(3) of the Constitution of India.

7. Learned Advocate Mr. Bhushan Raut appearing for the petitioners invited our attention of this Court to 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. He 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.

8. 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.

9. We have appreciated the submissions advanced by the learned Advocate appearing for the respective parties and considered the documents filed on record along with pleadings in the writ petition. It is evident that on 25/02/2022, the Government Resolution was passed by the State of Maharashtra under its Public Works Department, thereby granting administrative sanction to the development work in respect of State Highway No.52 to Ghodegaon Morechinchore, Katrad Road as well as development work in respect of Kharshinde Varshinde Tahrabad Rahuri Manori Valan Manjari Road. Similarly, vide Government Resolutions dated 14/02/2022 and 25/02/2022, administrative sanction with budgetary provision was made in respect of Vambori Khospuri Miri Maka Road, Taharabad Rahuri Sonai Kukana Road, Vambori Khedale Parmanand Road, Songaon Satral Rampur Kolhar Kh. Chincholi Gangapur Ambi Road and Kukkadvedhe Umbre Kendal Road.

10. 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.

11. 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.

12. 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.

13. 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 20/07/2022 issued by the respondents. Resultantly, we proceed to pass following order:

ORDER

(A) Writ Petition is partly allowed.

(B) The impugned Government Resolution dated 20/07/2022 is hereby quashed and seaside.

(C) The Respondents are directed to undertake the development works or activities in pursuance of the Government Resolutions dated 14/02/2022 and 25/02/2022 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.)