

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

**WRIT PETITION NO.11337 OF 2019**

1. Vitthal Santosh Patil  
Age: 62 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
2. Pramilabai Vitthal Patil  
Age: 48 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
3. Maharu Puna Patil,  
Age: 69 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
4. Dnyaneshwar Jhavaru Patil  
Age: 59 years, Occu: Agriculture,  
R/o: Gondgaon,  
Tal: Bhadgaon, Dist. Jalgaon
5. Vasat Dhondu Patil  
Age: 52 years, Occu: Agriculture,  
R/o: Gondgaon,  
Tal: Bhadgaon, Dist. Jalgaon
6. Sangitabai Vasant Patil  
Age: 46 years, Occu: Agriculture & Household,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
7. Dinkar Zavaru Patil  
Age: 50 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
8. Namdeo Baburao Patil  
Age: 58 years, Occu: Agriculture,  
R/o: Gondgaon  
Taluka: Bhadgaon, Dist. Jalgaon
9. Dilip Nimba Patil  
Age: 48 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

## 10. Sunita Dilip Patil

Age: 41 years, Occu: Agriculture & Household,

R/o: Gondgaon,

Taluka: Bhadgaon, Dist. Jalgaon

## 11. Ganesh Dhondu Sonar

Age: 59 years, Occu: Agriculture,

R/o: Gondgaon,

Taluka: Bhadgaon, Dist. Jalgaon

## 12. Sambhaji Pandurang Patil

Age: 38 years, Occu: Agriculture,

R/o: Gondgaon,

Taluka: Bhadgaon, Dist. Jalgaon

## 13. Pundlik Baburao Patil

Age: 70 years, Occu: Agriculture,

R/o: Gondgaon,

Taluka: Bhadgaon, Dist. Jalgaon

## 14. Sanjay Dhondu Mandole

Age: 47 years, Occu: Agriculture & Household,

R/o: Gondgaon,

Taluka: Bhadgaon, Dist. Jalgaon

## 15. Namdev Gajanan Sonar

Age: 60 years, Occu: Agriculture,

R/o: Gondgaon,

Taluka: Bhadgaon, Dist. Jalgaon

## 16. Ziparu Vaman Patil

Age: 59 years, Occu: Agriculture,

R/o: Gondgaon,

Taluka: Bhadgaon, Dist. Jalgaon

## 17. Gopal Panduranga Patil

Age: 24 years, Occu: Agriculture,

R/o: Gondgaon,

Taluka: Bhadgaon, Dist. Jalgaon

## 18. Jamnabai Nagaraj Patil

Age: 69 years, Occu: Agriculture & Household,

R/o: Gondgaon,

Taluka: Bhadgaon, Dist. Jalgaon

## 19. Suryakant Nagaraj Patil

Age: 46 years, Occu: Agriculture,

R/o: Gondgaon,

Taluka: Bhadgaon, Dist. Jalgaon

20. Sanjay Dhandu Patil  
Age: 47 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
21. Babulal Vaman Patil  
Age: 58 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
22. Parmeshwar Babulal More  
Age: 58 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
23. Neharu Lotan Patil  
Age: 53 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
24. Pratibhabai Neharu Patil  
Age: 50 years, Occu: Agriculture & Household,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
25. Lotan Shankar Patil  
Age: 83 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
26. Navasabai Lotan Patil  
Age: 77 years, Occu: Agriculture & Household,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
27. Ramchandra Baburao Patil  
Age: 70 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
28. Shobhabai Parmeshwar More  
Age: 55 years, Occu: Agriculture & Household,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
29. Rajubai Sudhir Patil  
Age: 47 years, Occu: Agriculture & Household,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

30. Shobhabai Sanjay Patil  
 Age: 44 years, Occu: Agriculture & Household,  
 R/o: Gondgaon,  
 Taluka: Bhadgaon, Dist. Jalgaon

31. Ravindra Ganpat Patil  
 Age: 43 years, Occu: Agriculture,  
 R/o: Gondgaon,  
 Taluka: Bhadgaon, Dist. Jalgaon

32. Dilip Ganpat Patil  
 Age: 35 years, Occu: Agriculture,  
 R/o: Gondgaon,  
 Taluka: Bhadgaon, Dist. Jalgaon

33. Subhash Narayan Patil  
 Age: 71 years, Occu: Agriculture,  
 R/o: Gondgaon,  
 Taluka: Bhadgaon, Dist. Jalgaon

34. Dnyaneshwar Damu Patil  
 Age: 45 years, Occu: Agriculture,  
 R/o: Gondgaon,  
 Taluka: Bhadgaon, Dist. Jalgaon

35. Rohidas Tukaram Patil  
 Age: 45 years, Occu: Agriculture,  
 R/o: Gondgaon,  
 Taluka: Bhadgaon, Dist. Jalgaon

36. Surekhabai Bhaurao Patil  
 Age: 48 years, Occu: Agriculture & Household,  
 R/o: Gondgaon,  
 Taluka: Bhadgaon, Dist. Jalgaon

37. Bhavarav Bhikaji Patil  
 Age: 60 years, Occu: Agriculture,  
 R/o: Gondgaon,  
 Taluka: Bhadgaon, Dist. Jalgaon

38. Pushabai Hiralal Patil  
 Age: 43 years, Occu: Agriculture,  
 R/o: Gondgaon,  
 Taluka: Bhadgaon, Dist. Jalgaon

39. Hiralal Bhikaji Jadhav  
 Age: 55 years, Occu: Agriculture,  
 R/o: Gondgaon,  
 Taluka: Bhadgaon, Dist. Jalgaon

40. Ratna Vijay Jadhav  
Age: 55 years, Occu: Agriculture & Household,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

41. Ushabai Govinda Patil  
Age: 63 years, Occu: Agriculture & Household,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

42. Skaharam Narayan Patil  
Age: 59 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

43. Vimalbai Sakharam Patil  
Age: 51 years, Occu: Agriculture & Household,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

44. Indubai Mahadu Patil  
Age: 74 years, Occu: Agriculture & Household,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

45. Shivaji Vinayak Patil  
Age: 35 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

46. Jagannath Tarachand Patil  
Age: 91 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

47. Dilip Devram Patil  
Age: 56 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

48. Baban Fakira Patil  
Age: 71 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

49. Suresh Namdev Patil  
Age: 47 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

50. Suresh Mahadu Patil  
Age: 49 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
51. Nital Govinda Patil  
Age: 42 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
52. Dhondu Tukaram Patil  
Age: 38 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
53. Santosh Pandharinath Patil  
Age: 45 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
54. Ramesh Namdev Patil  
Age: 66 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
55. Ishwar Shivram Patil  
Age: 45 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
56. Suresh Nathu Patil  
Age: 64 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
57. Hiranman Babulal Koli  
Age: 42 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
58. Subhash Rajaram Patil  
Age: 77 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
59. Bapurao Narayan Sapkale @ Patil  
Age: 58 years, Occu: Agriculture  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

60. Ramesh Rajaram Patil  
Age: 70 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
61. Reshmabi Bhoju Patil  
Age: 78 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
62. Shreepat Piran Patil  
Age: 64 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
63. Latabai Bhaskar Patil  
Age: Major, years, Occu: Agriculture & Household,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
64. Devaji Onkar Patil  
Age: 78 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
65. Ashok Namdev Patil  
Age: 73 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
66. Govinda Bhikaji Patil  
Age: 66 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
67. Ramrao Raghav Patil  
Age: 54 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
68. Manoj Daulatrao Patil  
Age: 47 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
69. Ananda Namdev Patil  
Age: 56 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

70. Devram Namdev Patil  
Age: 51 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
71. Ramkrishna Namdeo Pawar  
Age: 59 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
72. Deoram Ratan Patil  
Age: 72 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
73. Sagunabai Madhukar Patil  
Age: 49 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
74. Kusumbai Dhanraj Patil  
Age: 57 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
75. Kalpana d/o Damu Patil  
Age: 44 years, Occu: Agriculture & Household,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
76. Motilal Namdeo Patil  
Age: 53 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
77. Lalitabai Ramesh Patil  
Age: 55 years, Occu: Agriculture & Household,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
78. Dhanraj Tukaram Patil  
Age: 50 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon
79. Sanjay Govinda Patil @ Sapkal  
Age: 48 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

80. Sanjay Govinda Patil @ Marathe  
Age: 48 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

81. Bhila Jagannath Patil  
Age: 55 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

82. Prakash Khandu Patil  
Age: 61 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

83. Narayan Kashinath Wani  
Age: 62 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

84. Bapurao Kashinath Kotkar@Wani  
Age: 69 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

85. Bayjabai d/o Lotan Patil  
Age: 56 years, Occu: Agriculture & Household,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

86. Kamalbai Shaligram Patil  
Age: 65 years, Occu: Agriculture & Household,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

87. Dattatray Kashinath Kotkar @ Wani  
Age: 45 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

88. Jagannath Devchand Patil  
Age: 80 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

89. Shaligram Dayaram Patil (Died)  
Through L.R.  
Kamalbai Shaligram Patil  
Age: 65 years, Occu: Agriculture & Household,

R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

90. Dhanraj Nimba Patil  
Age: 58 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

... Petitioners

Versus

1. The Secretary  
Ministry of Finance  
Union of India, New Delhi

2. The Secretary,  
Agriculture, Animal Husbandry,  
Dairy Development and Fisheries Department  
State of Maharashtra  
Mantralaya, Mumbai-32

3. The Chairman-Cum-Managing Director  
Agriculture Insurance Company of India Ltd.,  
Mumbai Regional Office  
20<sup>th</sup> Floor, Stock Exchange Towers,  
Dalal Street, Fort, Mumbai-400 023

4. The State of Maharashtra  
Through- The Collector  
Jalgaon

5. The Commissioner & Director of Agriculture,  
Maharashtra State,  
Central Building 3<sup>rd</sup> Floor  
Pune 411 001

6. The Deputy Director of Agriculture  
Agriculture Department,  
Jalgaon, Dist. Jalgaon

... Respondents

**WITH  
WRIT PETITION NO.3339 OF 2018**

1. Babulal Fakira Patil  
Age: 70 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

2. Shantaram Fakira Patil  
Age: 64 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

3. Vijay Santosh Patil  
Age: 38 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

4. Pandurang Nimba Patil  
Age: 58 years, Occu: Agriculture,  
R/o: Gondgaon,  
Tal: Bhadgaon, Dist. Jalgaon

5. Barku Malji Patil  
Age: 65 years, Occu: Agriculture,  
R/o: Gondgaon,  
Tal: Bhadgaon, Dist. Jalgaon

6. Arun Zawaru Patil  
Age: 67 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

7. Nagraj Totaram Patil  
Age: 57 years, Occu: Agriculture,  
R/o: Gondgaon,  
Taluka: Bhadgaon, Dist. Jalgaon

8. Sudhir Bhikaji Patil  
Age: 52 years, Occu: Agriculture,  
R/o: Gondgaon  
Taluka: Bhadgaon, Dist. Jalgaon

... Petitioners

Versus

1. The Secretary  
Ministry of Finance  
Union of India, New Delhi

2. The Secretary,  
Agriculture, Animal Husbandry,  
Dairy Development and Fisheries Department  
State of Maharashtra  
Mantralaya, Mumbai-32

3. The Chairman-Cum-Managing Director  
Agriculture Insurance Company of India Ltd.,

Mumbai Regional Office  
20<sup>th</sup> Floor, Stock Exchange Towers,  
Dalal Street, Fort, Mumbai-400 023

4. The State of Maharashtra  
Through- The Collector  
Jalgaon

5. The Commissioner & Director of Agriculture,  
Maharashtra State,  
Central Building 3<sup>rd</sup> Floor  
Pune 411 001

6. The Deputy Director of Agriculture  
Agriculture Department  
Jalgaon, Dist. Jalgaon

... Respondents

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Mr. Pradhan Laxman K., Advocate for the Petitioners  
Smt. Sudha S. Chintamani, Advocate for Respondent No.1 in both petitions  
Mr. M. R. Deshmukh, Advocate for Respondent No.3 in both petitions  
Mr. S. S. Shinde, Advocate for Respondent Nos.2 & 4 to 6 in both petitions

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CORAM : MANGESH S. PATIL &  
S. G. CHAPALGAONKAR, JJ.

DATE : 19.01.2023

ORDER: [ PER S. G. CHAPALGAONKAR, J.]

1. The petitioners have approached this Court under Article 226 of the Constitution of India seeking the relief, which is articulated in prayer clause –

(A) of the petition, that states as under: -

*“(A) To direct the Respondents to consider the Claims of Insurance of the petitioners and to pay insurance amounts to the petitioners of Kajgaon Revenue Circle, Taluka: Bhadgaon, Dist. Jalgaon, of their Banana Crop during the Season 2015-2016 under “**The National Crop Insurance Programme (NCIP- Weather Based Crop Insurance Scheme (WBCIS)**”, by issuing an appropriate writ, order or direction, as the case may be;”*

2. The petitioners are agriculturists and holding their respective lands within Revenue Circle-Kajgaon, Taluka Bhadgaon, District Jalgaon. They are banana growers. During the season 2015-2016, they had obtained crop loans from Vividh Karyakari Seva Sahakari Society Ltd, Gondgaon. They paid insurance premium and obtained the insurance cover for banana crop as per NCIP- Weather Based Crop Insurance Scheme [hereinafter referred as “WBCIS” for short].

3. The Government of India, Ministry of Agriculture, Department of Agriculture and Cooperation issued administrative instructions for implementation of Pilot Weather Based Crop Insurance Scheme (WBCIS) during Kharif 2014 under the National Crop Insurance Programme (NCIP). The objective of the scheme aims to mitigate the hardship of insured farmers against the likelihood of financial loss on account of anticipated crop loss resulting from adverse weather conditions relating to rainfall, temperature, wind, humidity etc. The scheme uses weather parameters as “proxy” for crop yields in compensating the cultivators for deemed crop losses. Payout structures are developed to the extent of losses deemed to have been suffered using the weather triggers. The scheme provides for coverage of commercial/ horticulture crops. The weather perils like rainfall (deficit/ excess/ unseasonal), temperature (high / low), relative humidity, wind speed combination of the above etc. are identified for the insurance coverage. The State Government is required to consider to cover such perils which are capable of causing severe and quantifiable loss and can be induced directly or indirectly by change in measurable weather parameters to capture the losses during the adverse

climatic conditions.

4. The insurance companies/ implementing agencies (IA) are responsible for all payouts arising out of “Adverse Weather Incidence” strictly in terms of the scheme. The responsibility of the insurers attaches only when the risk has incepted. The payout arises in case of ‘Adverse Weather Incidence’ equivalent to deviation between ‘Trigger Weather’ and ‘Actual Weather’ recorded at ‘Reference Weather Station’ during the specified time period. The weather parameter would be applicable to the notified crop in a notified reference unit. In case of adverse weather incidence (AWI), all insured cultivators growing notified crop in the reference unit are deemed to have suffered the same level of crop-loss and become eligible for the same rate of payouts.

5. The State of Maharashtra issued a Government Resolution dated 03.12.2015 and adopted the scheme for implementation during the season 2015-2016. The Government Resolution prescribes applicability for particular crops, districts and period. The Government Resolution also provides for various triggers applicable for entitlement of the reimbursement of loss under the scheme.

6. Certain guidelines are prescribed by National Agricultural Insurance Scheme by the Government of India, Ministry of Agriculture, Department of Agriculture and Cooperation. The role to be played by various agencies has been prescribed under those guidelines. The Financial Institutions are made responsible to submit the crop insurance declaration to the implementing agency i.e. Insurance Company within one month from the cut-off date for receipt of proposals. In case, the farmer is deprived of any benefit under the

scheme due to errors/omissions/commissions of the Financial Institutions/Nodal Bank, they are liable to make good all such losses.

7. The Government Resolution dated 03.12.2015 provides for insurance cover to Banana Crop for district Jalgaon against the triggers like loss on account of excessive temperature during the period from 01.03.2016 to 31.05.2016. The triggers of the temperature are also specified at annexure 2 of the Government Resolution. In case the temperature levels are 40.5-degree Celsius continuously for the period of three days or more in the month of March, the fixed compensation is payable depending upon the insured area for respective crops. The petitioners are trying to fit their claims under the aforesaid provision.

8. It is the case of the petitioners that the respondent no.3/Insurance Company is appointed as implementing agency under the Government Resolution. It has released insurance claim in favour of two farmers from Kajgaon Revenue Circle. The amount of insurance reimbursement has been credited in the account of farmers namely, Manisha Nana Patil and Nana Atmaram Patil towards loss of banana crop for the season 2015-2016. However, the petitioners who are similarly situated farmers from the same Revenue Circle have been discriminated and the insurance amount is not released to them. According to the petitioners, the action on the part of respondent no.3 is arbitrary and violative of Article 14 of the Constitution of India. The petitioners have relied upon the copies of 7/12 extract of Gat No.35/1 & Gat No.37 of Village Dalwade, Taluka Bhadgaon standing in the names of Manisha Nana Patil and Nana Atmaram Patil, who have received the benefits of insurance scheme.

The petitioners have also contended that weather stations have not been installed as per the guidelines of scheme, resulting into inaccurate weather report. As such, the claim of farmers like petitioners have been frustrated.

9. The respondent no. 3 /Insurance Company filed the affidavit in reply and denied the averments in the petition. It is their contention that writ petition is not maintainable, since the petitioners are seeking direction for implementation of contractual obligation between the parties. The civil remedy is available for enforcement of contractual obligations. The extraordinary jurisdiction under Article 226 of the Constitution of India cannot be invoked since adequate efficacious alternate remedy is available under general law.

10. It is further contention of the respondent/Insurance Company that it has discharged the obligations in accordance with WBCIS and released the compensation to the eligible farmers based on the weather report received from reference weather station. It is further contention of the respondent/Insurance Company that as per the scheme, Primary Agriculture Co-operative Societies (PACS) send farmer details to the District Central Cooperative Bank (DCC Bank) and then the bank prepares declaration form and submits it to insurance company along with premium amount. Such declaration forms contain summary of number of the insured farmers, area covered and premium amount. The list of individual farmers is maintained at the bank level. In the present case, the declaration forms were forwarded by Jalgaon District Cooperative Bank and rest of the data was maintained by it.

11. It is further contention of respondent/Insurance Company that as per the weather data received from the reference weather station, of Kajgaon Circle

trigger deviation in weather, parameters was not observed. The petitioners are the insured farmers from Kajgaon Revenue Circle. In absence of adverse weather reports meeting with requisite trigger, the petitioners are not entitled to the compensation as per WBCIS scheme.

12. We have heard the learned advocates for the respective parties. The first objection that has been raised on behalf of the respondent no.3 is that, the writ petitions are not maintainable in view of the alternative efficacious remedy available to the petitioners. However, we are not inclined to accept the objection for the reason that large number of insured farmers have approached this Court raising their grievance regarding non-payment of insurance benefits. This Court has issued notice in the year 2019. The pleadings are complete and the issue regarding interpretation of the scheme has been posed for our consideration. There are no disputed question of facts. In that view of the matter, it would not be appropriate to relegate the petitioners to avail the alternate remedy even though it is available.

13. We have minutely considered the scheme. We have perused documents submitted by the parties in support of their claims. It is not in dispute that all the petitioners are holding their agricultural lands within Revenue Circle of Kajgaon, Taluka Bhadgaon, District Jalgaon. The weather data that has been placed on record by the petitioners for the relevant period would show that the requisite trigger of high temperature for continuous period of three days in the month of March has not been met with. The maximum temperature recorded by Reference Weather Station maintained by NCMSL during the period from 25.03.2016 to 31.03.2016 shows that it has never hit the requisite trigger of

40.5-degree celsius for consecutive three days. Naturally, no claim for compensation falls for consideration under the provisions of WBCIS. As per scheme, petitioners would have been entitled to receive the compensation only when the high temperature of 40.5-degree celsius is noted for three or more consecutive days during the month of March. Apparently, for want of requisite triggers, the petitioners are not eligible to receive the compensation under the scheme.

14. It is pertinent to note here that the petitioners have placed on record temperature data received from Reference Weather Station. No dispute is raised regarding the correctness of said data. The petitioners have not placed any other contrary material before this Court that would demonstrate existence of temperature triggers that would entitle them to receive the insurance claim under WBCIS. It is trite that if the claim of petitioners is based on the particular scheme governed by guidelines, the claim will have to be dealt with in the parameters laid down under the scheme. The petitioners can neither be deprived of the benefits available under scheme nor can they be extended the benefit beyond their entitlement.

15. The learned advocate for petitioners would submit that two farmers from Village Dalwade in Kajgaon Revenue Circle are extended benefits of the insurance claim towards banana crop during the season 2015-2016, but, the petitioners have been discriminated and similar benefits are not enlarged to them. The action of respondent/Insurance Company is arbitrary and violative of Article 14 of the Constitution of India.

16. Learned advocate for respondent/Insurance Company would submit that the declarations in respect of two farmers, namely, Manisha Nana Patil and Nana Atmaram Patil were forwarded by the DCC Bank, Jalgaon containing details of their insured banana crop. As per the declarations received by the insurance company, the lands of those farmers situate within Kolgaon Revenue Circle of Taluka Bhadgaon, District Jalgaon. He would further point out that the weather data for Kolgaon reference station shows the operation of requisite trigger of high temperature during the month of March-2016 and all the farmers from Kolgaon Revenue Circle are extended benefit of the insurance cover. He would further submit that concerned Bank has admitted clerical mistake that had occurred in data entry of farmers, namely, Manisha Nana Patil and Nana Atmaram Patil. Their revenue circles have been wrongly mentioned as Kolgaon in the declaration although their lands fall within the Revenue Circle of Kajgaon. Because of such wrong data entry of Revenue Circle in the declarations of those farmers, the compensation came to be released. We have perused the correspondence between DCC Bank Jalgaon and Insurance Company as well as the correspondence between the DCC Bank and PACS. It shows that the mistake was caused while making data entry and the revenue circle of two farmers was wrongly recorded by PACS. The remedial measures are undertaken for correction of such mistake.

17. The learned advocate Mr. Laxman Pradhan has relied upon the Judgment of the Division Bench of this Court in PIL No.91/2021 [Prashant s/o Achyutrao Lomate & Anr. Vs. The Union of India & Others], to contend that the Insurance Company cannot discriminate amongst the insured farmers and release the

benefits to one set of farmers while denying the similar benefit to other set of farmers. At this stage, the reference can be given to the law laid down by the Supreme Court of India in the matter of ***State of Bengal and Others Vs. Debasish Mukherjee and others*** (2011) 14 SCC 187, which reads as under :-

*“26. It is now well settled that guarantee of equality before law is a positive concept and cannot be enforced in a negative manner. If an illegality or an irregularity has been committed in favour of any individual or group of individuals, others cannot invoke the jurisdiction of Courts and Tribunals to require the state to commit the same irregularity or illegality in their favour on the reasoning that they have been denied the benefits which have been illegally or arbitrarily extended to others.”*

18. In our considered view, in the facts of the present case, there is no room to hold that respondent no.3/Insurance Company has discriminated amongst the similarly situated farmers, as it has been pointed out that the declaration of benefited farmers were wrongly issued, showing them from Kolgaon Revenue Circle instead of Kajgaon Revenue Circle and they have been wrongly paid the compensation. The communication issued by the Jalgaon DCC Bank Ltd. further shows that the remedial steps have already been taken for recovery of the amount wrongly paid to those farmers. The petitioners cannot derive the benefit from the clerical error caused during the data entry.

19. The upshot of above discussion, the petitioners are not entitled to compensation under WBCIS scheme. Their prayers for grant of insurance claim cannot be considered beyond the guidelines of WBCIS. The petitioners cannot seek advantage of the mistake committed by the bank while entering data in the computer system or declarations made by the bank, particularly when petitioners could not establish their entitlement to receive the compensation

amount under the scheme. Hence, we do not find merit in the writ petitions and dismiss them same with no order as to costs.

(S. G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)

Sameer