



(1)

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

47 WRIT PETITION NO. 3202 OF 2024

MOHAMADIYA SARKARI KARMACHARI GRUH NIRMAN
SAHAKARI SANSTHA LTD AMBAJOGAI THROUGH ITS
CHAIRMAN

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

....

Mr S. P. Salgar, Advocate h/f Mr Nitin V. Gaware Patil, Advocate
for Petitioner;

Mr A. B. Girase, G.P. for Respondents/State

**CORAM : RAVINDRA V. GHUGE
AND
R. M. JOSHI, JJ.**

DATE : 26th March, 2024

PER COURT:

1. The Petitioner claims to be a registered Society.

Prayer clauses (B), (C), (D), (E) and (F) read as under :-

“[B] Quash and set aside the impugned communications dated 07.08.2023 and 08.08.2023 issued by the respondent No.3 Collector, Beed thereby rejecting proposal submitted by the petitioner society for allotment of land from Survey No.586 within the limits of respondent No.6 Municipal Council, Ambajogai being without authority/jurisdiction and is violative of Article 14 & 21 of the Constitution of India and for that purpose issue necessary orders.

[C] Issue a writ of mandamus, or any other appropriate writ, order or directions in the nature of writ of mandamus, thereby directing the respondent No.1 State Government to

(2)

decide the proposal dated 30.11.1994 submitted by the respondent No.2 Divisional Commissioner, Aurangabad Division for allotment of land from Survey No.586 within the limits of respondent No.6 Municipal Council, Ambajogai in favor of the petitioner society and for that purpose issue necessary orders.

[D] Pending hearing and final disposal of this writ petition, grant stay to the execution, implementation and/or operation of impugned communications dated 07.08.2023 and 08.08.2023 issued by the respondent No.3 Collector, Beed thereby rejecting proposal submitted by the petitioner society for allotment of land from Survey No.586 within the limits of respondent No.6 Municipal Council, Ambajogai and for that purpose issue necessary order.

[E] Pending hearing and final disposal of this Writ Petition, thereby restraining the respondent authorities from taking any coercive action in view of the impugned communications dated 07.08.2023 and 08.08.2023 issued by the respondent No.2 Deputy Collector, Beed and for that purpose issue necessary orders.

[F] Pending hearing and final disposal of this Writ Petition, thereby directing the respondent No.1 State Government to decide the proposal dated 30.11.1994 submitted by the respondent No.2 Divisional Commissioner, Aurangabad Division for allotment of land from Survey No.586 within the limits of respondent No.6 Municipal Council, Ambajogai in favor of the petitioner society and for that purpose issue necessary orders.”

2. The Petitioner/Society claims that it's members are the Government employees. The said Society tendered an

(3)

application dated 10/05/1979 for seeking allotment of land for residential purpose from Survey No.586, which is admittedly Government land. It was registered as a Society on 25/03/1986. The members of the Petitioner/Society concede that they have no right, title and interest in the land. They do not have any allotment letter. They pray for regularization of their occupation of the land and the structure erected. It is further prayed that the State Government be directed by issuance of a Writ of Mandamus, to decide the proposal tendered by Respondent No.3/Collector Beed, dated 19/07/1991, which was forwarded by Respondent No.2/Divisional Commissioner, Chhatrapati Sambhajinagar to Respondent No.1/ State Government, dated 30/11/1994 with respect to Survey No.586.

3. Admittedly, the Petitioners are encroachers on *Gairan* land. An issue which is 30 years old, is now raised in this Petition. Considering the law laid down in **Jagpal Singh & ors. Vs. State of Punjab & ors., (2011) 11 Supreme Court Cases 396**, we do not deem it appropriate to issue a Writ of Mandamus.

4. The learned Advocate for the Petitioner seeks liberty to withdraw this Writ Petition and avail of a remedy as is permissible in law.

5. In view of the above, **this Writ Petition is disposed off**, as withdrawn on instruction, with liberty to avail of a remedy, if permissible in law.

(R. M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)

sjk