



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3215 OF 2024

Sanjay Balkrushna Joshi & others .. Petitioners

versus

The State of Maharashtra & others .. Respondents

Mr. N. B. Narwade, Advocate for the Petitioners.
Mr. S. K. Tambe, AGP for the State.

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

DATE : 22nd MARCH, 2024.

PER COURT :

1. These are the Petitioners who have been issued with notices for removal of encroachment on the Government land. It is conceded that by communication dated 11th August, 2023, the Gram Panchayat Taklimanur, Tq. Pathardi, Dist. Ahmednagar, had issued a notice to all of them.

2. The learned AGP places a compilation of such notices and the reply of these Petitioners (22 pages). The said compilation is marked as '**X-1**' collectively, for identification.

3. We find from the Petition paper book that earlier similarly situated Petitioners were before this Court in Writ Petition No. 6629/2022. By order dated 30th June, 202, this Court directed the District Collector to deal with the representation and initiate steps as are permissible in law. Subsequently, when a Co-ordinate Bench of this Court heard the Contempt Petition No. 226/2024, a simple notice was issued.

4. It is not disputed that these Petitioners did not have any lease agreement with the Gram Panchayat Taklimanur. None of them have entered into any contract with the said Gram Panchayat. The manner in which they were allowed to occupy the spaces by erecting Tapri, is also circumspect. However, these persons used to pay Rs. 500/- as rent of the space, to the Gram Panchayat. According to them, they are occupying the said spaces for more than two decades.

5. We find from the record before us that these Petitioners are encroachers. We called upon the learned Advocate for the Petitioners to take instructions as to whether they desire to withdraw this Petition since such disputed aspects cannot be gone into in a Writ jurisdiction. They could as well prefer a Civil Suit, if they

desired. The learned Advocate states on instructions that the Petitioners do not desire to avail of such remedy and they pray for orders to be passed by this Court.

6. From the record, it appears that the impugned order dated 19th March, 2024, was passed after issuance of notices at Annexure X-1 on 11th August, 2023. In response to the notice dated 11th August, 2023, none of these Petitioners either made a claim that they have a right, title or interest, nor have they produced any such document which would convince the Gram Panchayat to hold that they are legally occupying the said spaces. The reply tendered by these Petitioners to the Gram Panchayat clearly indicates that none of them claim to have any legal right to occupy the said spaces. It is only prayed that since they are running small shops/tapri, they should not be removed from the said shops.

7. Considering the above and in the light of the fact that none of the Petitioners have entered into any rent agreement with the Gram Panchayat, much less, a lease agreement, these Petitioners cannot continue to occupy the Government land, after the due procedure was followed.

8. In view of the above, **this Writ Petition is dismissed.**

(R. M. JOSHI)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

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