



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

WRIT PETITION NO. 13618 OF 2024

WITH

**CIVIL APPLICATION NO. 13509 OF 2024
IN WP/13618/2024**

HIRABAI ANNA BHOSALE AND OTHERS

VERSUS

**THE UNION OF INDIA THROUGH
THE SECRETARY AND OTHERS**

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Advocate for the Petitioners : Mr. D.K. Rajput And Mr. C.D. Rajput

AGP for Respondents/State : Mr. V.M. Kagne

Advocate for Applicant in CA : Mr. Sonavane Narendra D.

Advocate for Respondent Nos.1, 3, 5 & 7 : Mr. Sadanand S. Deve

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**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 13th DECEMBER 2024

PER COURT :

. Heard learned Counsel for the Petitioners.

2. The petitioners have received a notice from Junior Engineer, National Highway Sub Division Vaijapur, Dist. Chh. Sambhajinagar on behalf of respondent no.5 for removal of the encroachment on the highway on 30.05.2024. The petitioners have responded to the said notice in the month of September, 2024. They have an apprehension that they may be dispossessed illegally.

3. We appreciate the assistance rendered by the Advocate Mr.

Sonavane who has filed application to intervene the petition about the provision and procedure for removal of unauthorized occupation.

4. Section 26 in Control of National Highways Land and Traffic) Act, 2002 provides the procedure for removal of such encroachment. Under subsection 2, a notice should be served upon the unauthorized occupants directing to remove the unauthorized occupation within the prescribed time. The section also provides that the encroacher has an opportunity to satisfy the authority as to how such an encroachment is not an unauthorized. The notice in question though does not specify the time, the petitioners had responded to the said notice in the month of September, 2024.

5. Learned Counsel Mr. Deve waiving the service for the respondent nos. 1, 3, 5 and 7 would submit that the submissions of the September, 2024 have not been received to the office of respondent no.5. Hence there was no question to consider the same. Since there was no explanation, respondents/authorities are entitled to remove the encroachment as per the above provisions.

6. After hearing the respective parties, we are satisfied that the law has been provided and procedure for removal of unauthorized occupation. Therefore, to make the justice with everyone, we dispose of this petition by directing respondent no.5 to decide the response to the impugned notice dated 30.05.2024 on submitting the response

placed before this Court, showing date of 09.02.2024 to respondent no.5 and with further explanation if the petitioners desire within four days from today.

7. After receiving such response, the respondent no.5 should take decision under Section 26 of the Control of National Highway Lands and Traffic 2002 by giving opportunity of hearing to the petitioners and pass an appropriate order within a week thereafter.

8. Till the representation is decided, no coercive action shall be taken against the petitioners.

9. Civil Application is disposed of.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

Najeeb..