



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

50 WRIT PETITION NO. 5678 OF 2024

**PRALHAD SHANKAR RAJKUNTWAR
VERSUS
UNION OF INDIA THROUGH SECRETARY AND OTHERS**

.....
Advocate for the Petitioner : Mr. Bhavthankar Vivek Vasantryao
Advocate for Respondents/UOI : Mr. A.N. Patale
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**CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.
DATE : 19th June, 2024**

PC. :-

1. The Petitioner is alleged to be an encroacher by the National Highway Authority. His shops are said to be obstructing a public project. According to the learned advocate appearing on behalf of the Respondents, all other shop owners who had encroached upon the road and erected shops, have removed their structures and the project work is progressing. The Petitioner's five shops are becoming an obstruction in the project.

2. We find that the Petitioner has approached this Court on the Pratham Notice (First Notice) dated 06.11.2023, by filing this Petition on 10.06.2024.

3. Considering the delay as well as the allegations of encroachment, we do not find that this Court can entertain a Petition on disputed questions. Needless to state, the procedure as is laid down in law will have to be followed. If the Petitioner's constructed shops, are found to be an encroachment, the Petitioner would not be entitled for any compensation. However, if the shops are noticed to be erected on a land belonging to the Petitioner and the said land is utilized for the project, the claim of the Petitioner for compensation would be sustained.

4. With the above observations, **this Writ Petition is disposed off.**

5. In the event the Petitioner applies for measurement of the land including his shops, the Petitioner shall deposit the measurement fees as may be prescribed by the concerned Authorities, who shall, after giving an appropriate seven days notice to the Petitioner, carry out the measurement. Needless to state, after the measurement, if the Petitioner's land is found to have been consumed in a public project, he would be entitled for compensation for the land as well as for the structure. Nevertheless, the project will not be obstructed by the Petitioner.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]