



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

WRIT PETITION NO. 767 OF 2025

YASHWANT KONDIBA KHANDAGALE

VERSUS

**THE STATE OF MAHARASHTRA THROUGH SECRETORY
AND OTHERS**

...

Shri Kakade Amarsinha S., Advocate for the Petitioner.
Shri V.M. Kagne, AGP for Respondent Nos.1 to 6/State.

...

CORAM : MANGESH S. PATIL

&

PRAFULLA S. KHUBALKAR, JJ.

DATE : 30th January, 2025

Per Court :-

We have heard both the sides.

2. The petitioner *ex-facie* coming with an innocuous prayer. It is being pointed out that in the earlier round, the Collector was directed to consider his representation dated 21.11.2023 seeking regularization of encroachment. By passing the impugned order dated 10.10.2024, the representation has been turned down on the ground that it was already considered and decided on 14.02.2024.

3. We cannot approve of conduct of the Collector

concerned. Once this Court had directed him to take a decision on the representation, he ought not to have simply referring to the earlier decision, rejected the petitioner's application/representation for regularization.

4. In our considered view, this is unbecoming of the individual concerned. It demonstrates utter lack of application of mind and would even border the contempt of this Court.

5. Be that as it may, we had called upon the learned advocate for the petitioner to address us independently about his right to seek regularization of encroachment on the land, which is admittedly a Gairan land, particularly in the light of the decision in the matter of ***Jagpal Singh and others vs. State of Punjab and others, (2011) 11 SCC 396*** and consequential Government Resolution dated 12.07.2011. That was a PIL in respect of regularization of encroachment in the light of the earlier Government Resolutions dated 27.12.1978 and 28.11.1991. However, conspicuously and admittedly the scenario has undergone a sea change in the matter of encroachment on Gairan lands, post the decision in the matter of ***Jagpal Singh (supra)***. Taking an exception to the policy of the State Government to

undertake regularization, they were expressly mandated to form a policy *inter alia* without seeking to regularize encroachments on Gairan land. It is pursuant to such directives that the State of Maharashtra had come out with the Government Resolution dated 12.07.2011, which is also annexed to the petition.

6. The learned advocate for the petitioner would advert our attention to some minutes recorded on two occasions in ***R.V. Bhuskute and another vs. State of Maharashtra and another***, Public Interest Litigation No.204/2010 (principal seat) dated 16.12.2010 and 28.03.2014. Pertinently, there is no reference to ***Jagpal Singh (supra)*** or the Government Resolution dated 12.07.2011 in the two orders passed in ***PIL No.204/2010 (supra)***.

7. A bare look at the Government Resolution dated 12.07.2011 reveals that it does not admit of regularization of encroachment by an individual over a Gairan land.

8. The submission of the learned advocate for the petitioner that the petitioner is entitled to derive benefit of period since when he had actually encroached upon the Gairan land, is fallacious. If it is a matter of regularization of encroachment, the

policy as operating on the date the decisions are to be taken would be relevant, it being not a vested right.

9. In our considered view, all arguments addressed to us by the learned advocate for the petitioner have been squarely covered by the single judge in the matter of ***Bhagwan Kisan Wagh vs. State of Maharashtra and others, 2017 (2) Mh.L.J. 425***. The judgment extensively deals with all the aspects including absence of any reference to the changed policy in the Government Resolution dated 12.07.2011, in the matter of ***R.V. Bhuskute (supra)***.

10. The Writ Petition is dismissed.

kps

(PRAFULLA S. KHUBALKAR, J.) (MANGESH S. PATIL, J.)