



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

WRIT PETITION NO. 13666 OF 2025

Mehmud Khan Kasam Khan and others
VERSUS
The State of Maharashtra and others

Mr. Shaikh Shafique A. R. Ahmed, Advocate for petitioners
Mr. R. S. Wani, AGP for respondent-State

**CORAM : Smt. Vibha Kankanwadi &
Hiten S. Venegavkar, JJ.**

DATE : 18th November, 2025

ORDER (PER : Hiten S. Venegavkar, J) :-

1. The present writ petition is filed under article 226 of the Constitution of India seeking directions against respondent No. 5 for allotment of shops within a period of one month to the petitioner. The petitioners pray that the newly constructed shops in the shopping complex of Grampanchayat, Ashti, Tq. Partur, Dist. Jalna be allotted to them on a priority basis and that such allotment be completed within a period of one month. The petitioner states that in the year 2016, respondent No. 5, Grampanchayat, Ashti passed a Resolution to construct a shopping complex, specifically mentioning that the existing occupants who were already in possession of the property would be accommodated first on a preferred basis and only thereafter would hold a public auction of the remaining shops that will be constructed. The Zilla

Parishad had also granted permission to the Grampanchayat to construct the shopping complex on its own.

2. According to the petitioners, after the construction of the shopping complex was completed, the members of the Grampanchayat adopted illegal measures and irregular procedures while making allotments. The petitioners therefore, were deprived of their rightful preferential allotment of the shop in the said newly constructed shopping complex. The petitioners claim that they made several applications and representations and even undertook hunger strikes on multiple occasions to secure allotment of their shops from the Grampanchayat but no action was taken. The petitioners being old shop holders, asserts that they have preferential right to get shops on priority basis as per the 2016 Resolution and thus, they preferred a Writ Petition No. 8603 of 2022 challenging the legality of the new allotments made by respondent No. 5.

3. The petitioners further state that respondent Nos. 5, 6 and 7 passed a Resolution on 17.04.2023, declaring that all the petitioners would be allotted shop premises on a priority basis. However, this resolution was never implemented. Despite filing repeated representations and pursuing various authorities, the petitioners contended that respondent Nos. 5 to 7 have failed to act upon their own decision thereby compelling the petitioners to approach this Hon'ble

Court once again.

4. Learned counsel for the petitioners argued that the petitioners are old occupant of the premises situated in the same area where respondent No. 5 has now constructed the new shopping complex. As per the Grampanchayat Resolution, the old occupants were required to be given preferential allotment and only thereafter the newly constructed shops which are left out could be allotted by public auction. However, despite this mandate, the petitioners are being deprived of allotment till date. He further argued that even on 17.04.2023, during the pendency of Writ Petition No. 8603 of 2022, the respondent No. 5 passed a resolution assuring this Court that the petitioners would be given shops on priority basis. But, this assurance has also not been complied with. In absence of any other effective remedy, the petitioners have once again approached this Court seeking issuance of appropriate directions.

5. On the other hand, the learned AGP appearing for the State argued that the reliefs sought by the petitioner are not maintainable under article 226 of the Constitution of India. According to the learned AGP, disputes relating to the allotment of shops require adjudication by the Civil Courts and, therefore, no direction for allotment can be issued under writ jurisdiction. Accordingly, he prayed for dismissal of the

petition.

6. After hearing both the sides at length, we have noted that the primary relief sought by the petitioners is a direction to respondent No. 5 to allot a shop to them within one month. In support of their claim, the petitioners rely on a resolution dated 17.04.2023 annexed at Page No. 28 of the writ petition. A perusal of the said resolution reveals that the Grampanchayat in its meeting dated 17.04.2023 had indeed decided to allot shop premises to old shop holders on a priority basis subject to certain terms and conditions to be set by the Panchayat. The resolution further states that if the shop holders fail to comply with the terms and conditions, it would be treated as a refusal and the Grampanchayat would thereafter proceed with public auction.

7. It is further noted that on 18.04.2023, the said decision was communicated to the petitioners by respondent No. 5 during the pendency of Writ Petition No. 8603 of 2022. However, the petitioner has neither placed on record any material to show whether any shop premises were ever offered to him pursuant to his resolution nor is there any evidence of the terms and conditions imposed by the Grampanchayat or the petitioners compliance with them. The only contention repeatedly raised by the petitioner is that respondent No. 5 must be directed to issue an allotment order within one month.

8. In absence of any documentation showing either compliance with the prescribed conditions or an outright rejection of the petitioner's claim by respondent No. 5, we are of the opinion that no blanket directions for allotment can be issued. Whether the petitioners are entitled or eligible for allotment cannot be determined without proper material on record. The documents filed neither indicate that respondent Nos. 5 to 7 have rejected the petitioners' claim nor is such rejection is placed on record.

9. Therefore, we are of the considered opinion that no relief can be granted by the petitioners as prayed in the present petition. Accordingly, the petition stands dismissed. Rejection of the present petition should not be construed that respondent No. 5 cannot take a final decision on allotment of a shop premises to the petitioners if they are so entitled. In light of the aforesaid observation, the petition stands dismissed.

10. No orders as to cost.

(Hiten S. Venegavkar, J.)

(Smt. Vibha Kankanwadi, J.)

B. S. Joshi