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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12594 OF 2025

1. Sunil Namdev Dighe,
Age: 51 years, Occu.: Agril.,
2. Sachin Ramnath Dighe,
Age: 40 years, Occu.: Agril.,
3. Amol Balasaheb Dighe,
Age: 35 years, Occu.: Agril.,
4. Radhakisan Paraji Dighe,
Age: 54 years, Occu.: Agril.,
5. Kisan Eknath Dighe,
Age: 61 years, Occu.: Agril.,
6. Balu Sahebrao Dighe,
Age: 58 years, Occu.: Agril.

All R/o. Ralegaon Dighe,
Tql. Sangamner, Dist. Ahilyanagar

... Petitioners

Versus

1. The State of Maharashtra
Through Secretary,
Energy Industry and Labour
Development Department,
Mantralaya, Mumbai-32
2. The Maharashtra State Electricity Board,
Solar Agro Power Limited,
4th Floor, HSBC Building, M.G. Road,
Fort, Mumbai,
Through its Chief Managing Director.
3. The Additional Executive Engineer (Civil)
Civil Sub Division Maharashtra State,
Electricity Distribution Company Ltd.,
Ahilyanagar.

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4. The Additional Collector,
Ahilyanagar, Dist.Ahilyanagar.
5. Avada Energy Private Company Ltd.,
406/Hub Town, Solarish, N.S. Fadke
Marge, Andheri East, Mumbai, 400 069
Through its Authorized Officer,
6. The Project Director,
Vahini Project Director Pvt. Ltd.
Telegaon Dighe, Tal. Sangamner,
Dist. Ahilyanagar.

... Respondents

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Mr. Rahul A. Tambe, Advocate h/f Mr. Abhijit Darandale, Advocate for
Petitioners

Mr. Abhijeet M. Phule AGP for Respondents Nos. 1 and 4

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**CORAM : SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.**

RESERVED ON : 11 DECEMBER, 2025

PRONOUNCED ON : 18 DECEMBER, 2025

ORDER [Per Hiten S. Venegavkar, J.] :-

1. The petitioners, who are residents of village Ajampur, Taluka Sangamner, District Ahilya Nagar, have invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India to challenge the order dated 03.05.2025 passed by the Collector, Ahilya Nagar, whereby Gut No. 11 admeasuring 8 Hectares and 91 R of Gairan land situated at village Ajampur has been allotted on lease for a period of thirty years in favour of Respondent No. 2, namely Maharashtra State Electricity Board Solar Agro Power Limited, for implementation of a solar power project under the Chief Minister Solar Agri Vahini Yojana.

2. The case of the petitioners, in substance, is that the land in question is Gairan land, being village grazing land, and that it is the only such land available to the villagers for grazing of cattle and for social and community purposes. The petitioners contend that the allotment has been made without obtaining any valid consent or resolution of the Gram Panchayat or Gram Sabha and without taking the villagers or elected representatives into confidence. It is further alleged that the Gram Panchayat resolution dated 31.12.2024, which is relied upon by the authorities as a No Objection Certificate, is a fabricated document, as no such subject appeared on the agenda of the meeting allegedly held on that date and the issue of handing over the Gairan land was never discussed. The petitioners rely upon information obtained under the Right to Information Act to contend that there was no agenda item relating to the said land in the monthly meeting of the Gram Panchayat and, therefore, the resolution is fraudulent. It is also the grievance of the petitioners that possession of the land has been handed over to private entities, namely Respondent Nos. 5 and 6, who have commenced fencing activities, thereby effectively excluding villagers from access to the land. The petitioners further submit that the said Gairan land had earlier been considered for utilization under the Mahatma Gandhi National Rural Employment Guarantee Scheme for

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activities such as tree plantation, construction of cement nala bunds and development of a jogging park, and that diversion of the land for a solar project would deprive the villagers of these benefits. The learned advocate appearing for the petitioners has strenuously argued that allotment of Gairan land to a project involving private entities is impermissible in law and contrary to the judgment of the Supreme Court in *Jagpal Singh and others v. State of Punjab and others*, (2011) 11 SCC 396, wherein protection of village commons was emphasized. It is also urged that the entire process is vitiated by violation of principles of natural justice and by fraud allegedly committed by the Sarpanch and Gram Sevak in showing a false resolution.

3. Per contra, the learned Assistant Government Pleader appearing for the State has submitted that the allotment has been made strictly in accordance with law and in furtherance of a public welfare scheme of the State Government aimed at augmenting renewable energy generation to meet the energy requirements of the State. It is submitted that under the Government Resolution dated 14.06.2017, the Chief Minister Solar Agri Vahini Yojana was introduced and respondent No. 1 was designated as the implementing authority. Subsequent Government Resolutions, including the resolution dated 06.02.2019 issued by the Revenue and Forest Department and the communication dated

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20.07.2023 issued by the Additional Chief Secretary, Revenue Department, clearly provide for allotment of land, including Gairan land, at nominal lease rent for implementation of solar projects. The learned AGP has emphasized that Gairan land vests in the State Government and that villagers do not have ownership rights over such land. It is further submitted that Section 22A of the Maharashtra Land Revenue Code, 1966, as amended, expressly permits allotment of Gairan land for public purposes, including renewable energy projects, after due enquiry regarding suitability of the land, and that there is no statutory requirement of obtaining prior consent of the Gram Sabha or Gram Panchayat for such allotment. Strong reliance is placed on the judgment of this Court in ***Rajebhau Mukinda Nampalle and others v. The State of Maharashtra and others***, 2025 (4) ALL MR 481, wherein similar challenges were repelled after considering the judgment in ***Jagpal Singh*** (supra) and the provisions of Section 22A of the Maharashtra Land Revenue Code. It is submitted that the issues raised in the present petition are squarely covered by the said judgment.

4. On careful consideration of the record, it is evident that the allotment of the land in question is traceable to the statutory powers of the State under the Maharashtra Land Revenue Code. Section 22A of the Code deals with the regulation and management of Gairan land.

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Sub-section (2) thereof empowers the State Government to permit use of Gairan land for public purposes, subject to such conditions as may be prescribed, while sub-section (7) makes it clear that such land continues to vest in the State Government. The scheme of Section 22A does not contemplate or mandate prior consent of the Gram Sabha or Gram Panchayat as a condition precedent for allotment of Gairan land for a public project. What is required is an administrative satisfaction regarding the suitability of the land and the public purpose sought to be served. In the present case, the record discloses that a report was called from Tahsildar, Sangamner, who, by his report dated 18 February 2025, examined the status and availability of the land. The Collector thereafter passed the order dated 3 May 2025 leasing the land for a period of thirty years for the solar project, and the lease deed was executed on 29 May 2025. Thus, the statutory procedure has been followed.

5. The contention of the petitioners that the village will be left with no Gairan land is belied by their own pleadings. The petitioners have themselves stated that the total Gairan land available in the village is 17 Hectares and 34 R, out of which only 8 Hectares and 91 R has been allotted for the solar project. The assertion that the entire grazing land is being taken away is, therefore, factually incorrect. As regards the

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reliance on *Jagpal Singh* (supra), the said judgment does not lay down an absolute prohibition on use of village commons for public purposes. On the contrary, it recognizes the power of the State to regulate such land, while cautioning against arbitrary or illegal diversion for purely private interests. In the present case, the project is a solar power project undertaken under a State policy for renewable energy, which squarely falls within the ambit of public purposes. This aspect has already been considered by this Court in *Rejebhau Mukinda Nampalle* (supra), wherein it has been held that allotment of Gairan land for solar energy projects under Section 22A of the Code is legally permissible and does not require prior consent of the Gram Sabha.

6. The allegation that the Gram Panchayat resolution is fraudulent raises disputed questions of fact, which cannot be adjudicated in the exercise of writ jurisdiction under Article 226 of the Constitution. Even otherwise, in view of the statutory position that no such consent is required, the validity or otherwise of the alleged resolution does not go to the root of the matter. It is also significant that the present petition has been filed by only six individuals, and there is no material on record to demonstrate that the challenge reflects the collective will or objection of the majority of villagers.

7. Having regard to the statutory framework of the Maharashtra Land Revenue Code, the Government Resolutions governing the solar energy scheme, the binding precedent of this Court in ***Rejebhau Mukinda Nampalle*** (supra), and the facts placed on record, We are of the considered view that the petitioners have failed to establish any illegality, arbitrariness, or perversity in the decision-making process of the Collector warranting interference under Article 226 of the Constitution. The allotment of the land has been made for a public purpose in accordance with law, and no enforceable legal right of the petitioners has been shown to have been violated. Consequently, the writ petition is devoid of merit and is liable to be dismissed. The petition accordingly stands dismissed. There shall be no order as to costs.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE