

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 76 OF 2016

Shri. Chandrakant Dashrat Dhengle
and Ors.

...*Petitioners*

: *Versus* :

The State of Maharashtra, through the
Secretary, Revenue and Forest Dept..
and Ors.

.....*Respondents*

Mr. Dilip Bodake *a/w. Mr. Sharad T. Bhosale, for the Petitioners.*

Mrs. Neha S. Bhide, *Government Pleader with Mr. O.A. Chandurkar,
Additional Government Pleader and Mrs. G.R. Raghuvanshi, AGP for
Respondent Nos.1 to 4.*

CORAM : ALOK ARADHE, CJ &

SANDEEP V. MARNE, J.

DATED : 31 JULY 2025.

P.C. :

1) The Petitioners who are Agriculturists have filed this PIL in which validity of the order dated 9 February 2015 passed by the Collector, Solapur in Review Application No. PR/663/2014 has been assailed. The Petitioner also seeks to quash and set aside the allotment

of Gairan land admeasuring 2 hectares situated at Village-Javalgaon, Taluka-Barshi, District-Solapur in favour of Respondent No.5-Trust.

2) Facts giving rise to this petition in nutshell are that, Respondent No.5 is a Registered Trust. The State Government is the owner of Gairan land bearing Survey No.194 admeasuring 15 hectares and 3 Ares situated at Village-Javalgaon, Taluka-Barshi, District-Solapur. The aforesaid land is situated near Javalgaon Medium Irrigation Project. The construction of the aforesaid Javalgaon Medium Irrigation Project was completed in the year 1989. Respondent No.5-Trust submitted an application seeking allotment of Gairan land of 5 Acres for construction of a School. Thereupon, by an order dated 19 September 2008, 2 hectares of land for construction of the school building was allotted to the Respondent No.5-Trust. It appears that Respondent No.5-Trust constructed a School building on the said land sometime in the year 2010.

3) Thereafter, it appears that the Irrigation Department filed an application before the Collector, seeking review of the order dated 19 September 2008 by which land was allotted in favour of Respondent No.5-Trust on the ground that the land belongs to the Irrigation Department. The Collector by an order dated 18 January 2012, allowed the Review Petition filed by the Irrigation Department and cancelled the order of allotment on 19 September 2008.

4) Respondent No.5-Trust thereupon filed an Appeal before the Divisional Commissioner who by an order dated 9 July 2012 remitted the matter to the Collector. The Collector, thereupon by an order dated 9 February 2015, *inter-alia*, held that the prohibition contained in the Government Resolution dated 2 August 2013 which prohibits construction within the periphery of 100 mtrs of dam does not apply to the school building as the same was constructed prior to issuance of the aforesaid G.R. The Collector also took into account the fact that in the year 2010 itself, the School building was constructed and the school had become functional. Accordingly, the order dated 18 January 2012 was recalled and the Review Petition was allowed. In the above factual background, this PIL has been filed.

5) Mr.Bodake, the learned counsel appearing for the Petitioner submits that the land which has been allotted to Respondent No.5-Trust belongs to the Irrigation Department and the same could not have been allotted by the Collector to Respondent No.5-Trust. It is further submitted that the Collector ought to have appreciated that the school building is situated within a radius of 100 mtrs from the dam and therefore no construction is permitted in the light of G.R. dated 2 August 2013 which prohibits construction within the periphery of 100 mtrs of land adjacent to the dam.

6) We have considered the rival submissions made by both the sides and perused the record. The original order of allotment was made

in favour of Respondent No.5-Trust on 19 September 2008. Acting on the aforesaid order of allotment, Respondent No.5-Trust constructed the school in the year 2010 and made the school functional. The Petitioners who are residents from the same village did not take any objection to construction work of the school by Respondent No..5.

7) Thereafter, the Irrigation Department objected to allotment of the land by filing a Review Petition. The aforesaid Review Petition was allowed by an order dated 18 January 2012 and order of allotment dated 19 September 2008 was cancelled. Respondent No.5 thereupon preferred an Appeal before the Divisional Commissioner, who by an order dated 9 July 2012, remanded the proceedings to the Collector with a direction for constitution of an Committee to examine the issue. The Collector, in pursuance of order of remand constituted an Expert Committee. The Expert Committee submitted its report on 21 August 2012 which was considered by the Collector while passing order dated 9 February 2015. It is pertinent to note that the aforesaid Expert Committee consisted of officers of the Irrigation Department as well. The committee did not conclude any prohibition on construction on land. The Collector has also taken into account the fact that the School was already constructed in the year 2010 itself and was made functional. The Collector also noticed that the prohibition contained in G.R. dated 2 August 2013 does not apply to the facts of the case in hand as the school building was constructed prior to issuance of G.R. i.e. 2 August 2013.

8) The Petitioners who are residents of the village did not raise any objection either to the allotment or to the construction of the school building who have been mute spectators. The Petitioners have filed PIL after a period of 8 years of original order of allotment. The order of allotment of land to Respondent No.5 does not suffer from any infirmity warranting interference of this Court in this PIL. In the result, the petition fails and is hereby dismissed.

[SANDEEP V. MARNE, J.]

[CHIEF JUSTICE]

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