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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 114 OF 2024

Santosh Suresh Patil .. Petitioner
Versus
The State of Maharashtra & Ors. .. Respondents

**WITH
WRIT PETITION NO. 11796 OF 2024**

**WITH
INTERIM APPLICATION (ST) NO. 5757 OF 2025**

The Mohol Bar Association .. Petitioner
Versus
The State of Maharashtra & Ors. .. Respondents

**WITH
INTERIM APPLICATION NO. 13411 OF 2024
IN
WRIT PETITION NO. 11796 OF 2024**

Grampanchayat Bitle & Ors. .. Applicants

In the matter between:

The Mohol Bar Association .. Petitioner
Versus
The State of Maharashtra & Ors. .. Respondents

**WITH
INTERIM APPLICATION NO. 13410 OF 2024
IN
WRIT PETITION NO. 11796 OF 2024**

**Grampanchayat Galandwadi/
Paslewadi & Ors. .. Applicants**

In the matter between:

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The Mohol Bar Association .. Petitioner
Versus
The State of Maharashtra & Ors. .. Respondents

WITH
INTERIM APPLICATION NO. 13409 OF 2024
IN
WRIT PETITION NO. 11796 OF 2024

Kuranwadi Vividha Karyakari
Seva Sahakari Sanstha Ltd. & Ors. .. Applicants

In the matter between:

The Mohol Bar Association .. Petitioner
Versus
The State of Maharashtra & Ors. .. Respondents

WITH
WRIT PETITION NO. 13078 OF 2024

Kakasaheb Vitthal Khandare & Ors. .. Petitioners
Versus
The State of Maharashtra & Ors. .. Respondents

WITH
INTERIM APPLICATION NO. 13413 OF 2024
IN
WRIT PETITION NO. 13078 OF 2024

Grampanchayat Sarole .. Applicant

In the matter between:

Kakasaheb Vitthal Khandare & Ors. .. Petitioners
Versus
The State of Maharashtra & Ors. .. Respondents

**WITH
PUBLIC INTEREST LITIGATION NO. 120 OF 2024**

Somesh Nagnath Kshirsagar .. Petitioner
Versus
The State of Maharashtra & Ors. .. Respondents

**WITH
WRIT PETITION NO. 14367 OF 2024**

Stephal Gram Panchayat & Ors. .. Petitioners
Versus
The State of Maharashtra & Ors. .. Respondents

**WITH
INTERIM APPLICATION NO. 14222 OF 2024
IN
WRIT PETITION NO. 14367 OF 2024**

Ravindra Chagan More & Ors. .. Applicants

In the matter between:

Stephal Gram Panchayat & Ors. .. Petitioners
Versus
The State of Maharashtra & Ors. .. Respondents

**WITH
WRIT PETITION NO. 14466 OF 2024**

Vijayraj Manohar Dongare & Anr. .. Petitioners
Versus
The State of Maharashtra & Ors. .. Respondents

**WITH
INTERIM APPLICATION NO. 14223 OF 2024
IN
WRIT PETITION NO. 14466 OF 2024**

Shashikant Bhanudas Wagaj & Ors. .. Applicants

In the matter between:

**Vijayraj Manohar Dongare & Anr.
Versus**

.. Petitioners

The State of Maharashtra & Ors.

.. Respondents

Mr. Anil Anturkar, Senior Advocate with Mr. Ashutosh Kulkarni, Vrushali Maindad, Shaheen Kapadia and Simran Raut for petitioner in PIL/114/2024.

Mr. Suresh Shah, Senior Advocate with Mr. Hrishikesh S. Shinde a/w Ishan Kapse for petitioners in WP/11796/2024.

Mr. Hrishikesh S. Shinde for petitioners in WP/14367/2024.

Mr. Anant Vadgaonkar for petitioners in WP/13078/2024.

Mr. Dhananjay K. Chavan for petitioners in PIL/120/2024.

Mr. Mr. Purushottam G. Chavan a/w Someshwar Paware for petitioners in WP/14466/2024.

Mrs. Neha S. Bhide, Govt. Pleader with Mr. O. A. Chandurkar, Addl. Govt. Pleader with Mrs. G. R. Raghuwanshi, AGP for respondents-State in all the matters.

Mr. M. V. Thorat for respondent nos.7 to 15 in PIL/114/2024 and for applicant in IA/13411/2024, IA/13410/2024, IA/13409/2024 and IA/13423/2024.

Mr. Nitin Gaware Patil for applicants in IA/14222/2024 and IA/14223/2024.

**CORAM: ALOK ARADHE, CJ. &
ARIF S. DOCTOR, J.**

DATE: 17th FEBRUARY, 2025

ORDER (Per Chief Justice):

1. Rule. Rule is made returnable forthwith. With the consent of the learned counsel for the parties, heard finally.

2. In this bunch of writ petitions a common issue with regard to validity of Government Resolution dated 24th July, 2024 issued by Deputy Secretary, Revenue and Forest Department, Government of Maharashtra is involved. Therefore, these petitions were taken up and are being disposed of by this common order. For the facility of reference, facts from PIL No. 114 of 2024 are being referred.

3. The petitioner claims to be a public spirited individual and is residing at Taluka – Mohol, District – Solapur. About 50 years ago, a Tahsil Office at Mohol, District – Solapur was established. Thereafter, by a Government Resolution dated 24th July, 2024, office of Additional Tahsildar at village Angar, Taluka – Mohol, District – Solapur was set up and 43 villages have been attached with the office of Additional Tahsildar. The petitioner in this petition has assailed the validity of the Government Resolution, *inter alia*, on the ground that the same is violative of Section 4 of the Maharashtra Land Revenue Code, 1966 (MLRC, 1966) read with Section 24 of the Bombay General Clauses Act, 1904.

4. Learned senior counsel for the petitioner in PIL No. 114 of 2024 and learned counsel for the petitioners in other writ petitions submit that by issuing the impugned Government Resolution, respondents have altered the limits of revenue area without following the mandate contained in Section 4 of the MLRC, 1966 read with Section 24 of the Bombay General Clauses Act, 1904. It is further submitted that Section 4 of MLRC, 1966 is mandatory in nature and, therefore, impugned Government Resolution cannot be sustained in the eye of law. In support of the aforesaid submission, reliance has been

placed on the decision of the Division Bench of this Court in ***Dr. Avinash Ramkrishna Kashiwar & ors. vs. State of Maharashtra & Ors., 2015 (5) Mh.L.J. 830.***

5. On the other hand, learned Additional Government Pleader for the State of Maharashtra submits that the provisions of Section 4 of the MLRC, 1966 and Section 24 of the Bombay General Clauses Act, 1904 are not attracted to the fact situation of the case as the respondent no.2 has only set up an Additional Tahsildar's Office at village Angar, Taluka – Mohol, District – Solapur. It is further submitted that the petition is misconceived and is, therefore, liable to be dismissed.

6. Learned counsel for the interveners have supported the stand taken by the learned Additional Government Pleader.

7. We have considered the rival submissions made on both the sides.

8. The MLRC, 1966 is an Act to unify and amend the law relating to land and land revenue in the State of Maharashtra. Section 4 of the MLRC, 1966 provides for constitution of revenue areas. For the facility of reference, Section 4 is extracted hereinbelow:

"4. Constitution of revenue areas

(1) The State Government may, by notification in the Official Gazette, specify-

(i) the districts including the City of Bombay which constitute a division;

(ii) the sub-divisions which constitute a district;

(iii) the talukas which constitutes a sub-division;

(iv) the village which constitutes a taluka;

(v) the local area which constitutes a village; and

(vi) alter the limits of any such revenue area so constituted by amalgamation, division or in any manner whatsoever, or abolish any such revenue area and may name and after the name of any such revenue area; and in any case where any area is renamed, then all references in any law or instrument or other documents to the area under its original name shall be deemed to be references to the area as renamed, unless expressly otherwise provided:

Provided that, the State Government shall, as soon as possible after the commencement of this Code, constitute by like notification every wadi, and any area outside the limits of the gaathan of a village having a separate habitation (such wadi or area having a population of not less than three hundred, as ascertained by a Revenue Officer not below the rank of a Tahsildar) to be a village; and specify therein limits of the village so constituted.

(2) The Collector may by an order publish in the prescribed manner arrange the villages in a taluka which shall constitute a saza; and the saza in a taluka which shall constitute a circle, and may alter the limits of, or abolish any saza or circle, so constituted.

(3) The divisions, districts, sub-divisions, talukas,

circles, sazas and villages existing at the commencement of this Code shall continue under the names they bear respectively to be the divisions, districts, sub-divisions, talukas, circles, sazas and villages, unless otherwise altered under this Section.

(4) Every notification or order made under this Section shall be subject to the condition of previous publication; and the provisions of Section 24 of the Bombay General Clauses Act, 1904, shall, so far as may be apply in relation to such notification or order, as they apply in relation to rules to be made after previous publication.

9. Thus, it is evident that in case there is an alteration in the limits of the revenue area by amalgamation/division or in any manner whatsoever or abolition of such revenue area, the procedure prescribed under Section 4 of MLRC, 1966 and Section 24 of the Bombay General Clauses Act, 1904 has to be followed.

10. A Division Bench of this Court in ***Dr. Avinash Ramkrishna Kashiwar & Ors.*** (supra) has held that before issuing the notification for alteration of the revenue area, the procedure prescribed under Section 4 of MLRC, 1966 read with Section 24 of the Bombay General Clauses Act, 1904 is required to be followed and provisions of Section 4 of MLRC, 1966 and Section 24 of the Bombay General Clauses Act, 1904 are mandatory in nature and any departure therefrom is not sustainable in law. Paragraphs 23 to 25 of the said decision are extracted below for facility of reference:

"23. *In the present case, we are of the considered view that the objections and suggestions that were invited were for establishing the headquarter of the sub-division at Sadak-Arjuni and not at Morgaon-Arjuni. As already held hereinabove the right provided in the statute to the citizens cannot be an empty formality. It would have been a different matter that the draft proposal itself provided the headquarter to be either at Sadak-Arjuni or Morgaon-Arjuni. However, the draft proposal specifically provided for the headquarter of the sub-division only at Sadak-Arjuni.*

24. *In that view of the matter, we find that the impugned notification is in violation of the provisions as incorporated in section 4 of the Code as well as section 24 of the Bombay General Clauses Act. As has been held by the Apex Court that provisions are mandatory and any departure therefrom is not sustainable in law.*

25. *Insofar as the merits of the rival claims are concerned, we do not propose to go into that aspect. By now it is settled position of law that, in such matters, we cannot sit in appeal over the decisions of the authorities. While exercising the powers of the judicial review under Article 226 of the Constitution of India, a limited inquiry that would be permissible is as to whether the decision-making process of the authorities is legal or not and as to whether the same suffers from the illegality, irrationality or the arbitrariness. In that view of the matter though it is tried to be urged at length that either Sadak-Arjuni or Morgaon-Arjuni are more suitable, it will*

not be permissible for us to go into that aspect of the matter. That decision will have to be left to the wisdom of the authority vested with the said power.”

11. Thus, it is evident that in case of an alteration of revenue area, the procedure prescribed under Section 4 of MLRC, 1966 and Section 24 of the Bombay General Clauses Act, 1904 is required to be followed.

12. In the instant case, the revenue area of Mohol Taluka has been altered by taking out 43 villages and attaching them with the new office of Additional Tahsildar. Admittedly, the procedure prescribed under Section 4 of MLRC, 1966 and Section 24 of the Bombay General Clauses Act, 1904 has not been complied with. The impugned action of the respondents in establishing the Additional Tahsildar's office at village Angar, Taluka – Mohol, District – Solapur is procedurally *ultra vires* as the division has been done in violation of the procedure contained in Section 4 of MLRC, 1966 and Section 24 of the Bombay General Clauses Act, 1904. The contention on behalf of the learned Additional Government Pleader that it is merely a creation of a branch office of Tahsildar does not deserve acceptance.

13. For the aforementioned reasons, impugned Government Resolution dated 24th July, 2024 is quashed and set aside. However, liberty is granted to the respondents to proceed afresh in the matter after complying with the mandate contained in Section 4 of MLRC, 1966 and Section 24 of the Bombay General Clauses Act, 1904, if so advised.

14. All the petitions are disposed of.

15. Pending interim applications, if any, stand disposed of.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)