IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14995 OF 2026

NANA VITHOBA BARFE DIED THROUGH LR
SHIVDAS NANA BARFE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH
THE SECRETARY AND OTHERS
...
Advocate for the Petitioners : Mr. Kanade Angad Lala
AGP for Respondents: Mr. N.D. Batule
...

CORAM : NITIN B. SURYAWANSHI AND
ABASAHEB D. SHINDE, JJ.

DATE : 29.10.2026

PER COURT:

1. Heard Mr. Kanade, learned Advocate for the petitioners and learned AGP for the State.

2. The claim put forth by the petitioners, by this petition, is in respect of encroachment made by them over portion of land Gut No.64, situated at Maharola, Tq. Paithan, District Aurangabad with the prayer that encroachment be regularized in view of the provisions contained in Government Resolution dated 28/11/1991.

3. Learned Advocate for the Petitioners has drawn our attention to the panchanama prepared by the revenue officials on 03/01/2006, which has been enclosed as (Exhibit A Colly), to the Writ Petition, wherein it has been stated that, the petitioners have been found in

encroachment over some portion of Gut No.64. Drawing our attention to the provisions contained in the aforesaid Government Resolution, it has been stated by learned Advocate for the petitioners that, in terms of the provisions contained, if a person belonging to Scheduled Caste is found in encroachment over some of the gairan land between the period commencing from 01/04/1978 and ending on 14/04/1990, the same is entitled to be regularized.

4. Learned AGP, however, has opposed the petition and has drawn our attention to Section 22-A of the Maharashtra Land Revenue Code, 1966, according to which, gairan land or pasture land can be diverted, granted or leased only for public purpose or public project of Central Government or State Government and not to any individual. He has thus argued that, in view of the said provision, the prayer made by the petitioners for regularisation of the land in question is not tenable.

5. We have considered the rival submissions made by the learned counsel for the parties and have also perused the records available before us in this Writ Petition. The Hon'ble Supreme Court, in the case of *"Jagpal Singh & ors. Vs. State of Punjab & ors". reported in (2011) 11 SC 396*, has taken note of certain encroachments on Government land and has opined that there cannot be any justification for regularising such illegal occupation. However, while directing the State Government and other authorities to prepare a scheme for eviction of

illegal/ unauthorised occupants of the Government land, and the land earmarked for common villagers, has also provided that, regularisation should only be permitted in exceptional cases or where lease has been granted under Government Notification to landless labourers or members of the Scheduled Caste/ Scheduled Tribe, or where there is already a school, dispensary or other public utility on the land.

6. Considering the grant of land to the members of Scheduled Castes for giving effect to the mandate as contained in the judgment of the Hon'ble Supreme Court in **Jagpal Singh** (supra), the State Government has issued Government Resolution dated 12/07/2011, wherein directions have been issued to give effect to the mandate in the case of **Jagpal Singh** (supra). Having regard to the provisions contained in Government Resolution dated 12/07/2011 and the provisions contained in Section 22-A of the Maharashtra Land Revenue Code, 1966, which was inserted w.e.f. 26/04/2017, no illegal encroachment is permissible to be regularized on gairan land.

7. However, having observed as above, what we noticed in this case is that, prior to issuance of the Government Resolution dated 12/07/2011, an application was made on behalf of the petitioner to the Sub Divisional Officer (SDO), Paithan seeking regularisation, on 10.07.2011. It further appears to us that, in pursuance of the said application moved by the petitioner to the SDO, Paithan, the claim of

the petitioners for regularisation has till date not been considered finally. The panchanama enclosed with the Writ Petition at Exhibit A discloses that the revenue authorities themselves have found the petitioners in occupation of the subject land since 1970.

8. In view of the aforesaid, we dispose of this Writ Petition with the direction to the Collector, Aurangabad to consider the claim of the petitioners for regularisation of their occupation over the subject land in the light of panchanama dated 03.01.2006 and Summary Case No.476/1970 by passing a reasoned and speaking order strictly in accordance with law.

9. For taking an appropriate decision, the Collector will call upon the requisite documents and record from his subordinates and shall also provide an opportunity of hearing to the petitioners.

10. The entire exercise shall be completed by the Collector within three months from the date the certified copy of this order is produced before him.

11. With the aforesaid observations and directions, the Writ Petition is disposed of.

(ABASAHEB D. SHINDE, J.) **(NITIN B. SURYAWANSHI, J.)**

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