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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13260 OF 2026

Dayanand Kachru Magare PETITIONER

VERSUS

The State of Maharashtra and Others RESPONDENTS

.....

Mr. Angad Lala Kanade, Advocate for the Petitioner
Mr. V. M. Kagne, AGP for Respondent - State

.....

[CORAM : NITIN B. SURYAWANSHI, &
ABASAHEB D. SHINDE, J. J.]

DATE : 5th OCTOBER, 2026

ORDER :

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

2. The claim put forth by the petitioner, by this petition, is in respect of encroachment made by him over portion of land Gut No.158, situated at village Pategaon, Taluka - Paithan, District Aurangabad with the prayer that encroachment be regularised in view of the provisions contained in two Government Resolutions dated 28/11/1991 and 12/7/2011.

3. Learned Advocate for the Petitioner has drawn our attention to the panchanama prepared by the revenue officials

on 19/09/2011, which has been enclosed as Exhibit A to the Writ Petition, wherein it has been stated that, the petitioner has been found in encroachment over some portion of Gut No.158. Drawing our attention to the provisions contained in the aforesaid two Government Resolutions, it has been stated by learned Advocate for the petitioner 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 1/4/1978 and ending on 14/4/1990, the same is entitled to be regularised.

3. 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 petitioner for regularisation of the land in question is not tenable.

4. 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. 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.

5. 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 12/7/2011, 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 12/7/2011 and the provisions contained in Section 22-A of the Maharashtra Land Revenue Code, 1966, which was inserted w.e.f. 26/4/2017, no illegal encroachment is permissible to be

regularised on gairan land.

6. However, having observed as above, what we noticed in this case is that, prior to issuance of the Government Resolution dated 12/7/2011, an application was made on behalf of the petitioner seeking regularisation, whereupon the Divisional Commissioner, by letter dated 11/09/2008 directed the Collector to take further action for regularization of the land. It further appears to us that, in pursuance of the said communication issued by the Divisional Commissioner, the claim of the petitioner 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 petitioner in occupation of the subject land.

7. In view of the aforesaid, we dispose of this Writ Petition with the direction to the Collector, Aurangabad to consider the claim of the petitioner for regularisation of his occupation over the subject land in the light of communication dated 19th August, 2008 by passing a reasoned and speaking order strictly in accordance with law.

8. 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 petitioner.

9. 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.

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

[ABASAHEB D. SHINDE]
JUDGE

[NITIN B. SURYAWANSHI]
JUDGE

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