



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2642 OF 2026

1. Rastrapal s/o Davidrao Tupe
2. Macchindra s/o Mahadeo Gore
3. Nandkishor s/o Devlal Kevat
4. Gokul s/o Sitaram Patil
5. Prabhakar s/o Sudamrao Ingle
6. Anis Noor Mohd. Shaikh

.. Petitioners

Versus

1. The State of Maharashtra
Through its Secretary,
Rural Development and Water
Conservation Department,
Mantralaya, Mumbai-32.
2. The Chief Executive Engineer/
(Section Officer), Jaikwadi Project Rural
Development and Irrigation Department,
Jaikwadi, Tq. Paithan, Dist. Aurangabad.
3. The Assistant Engineer (Class-II),
Jaikwadi Project Rural Development and
Irrigation Department, Jaikwadi,
Tq. Paithan, Dist. Aurangabad.
4. The District Collector,
District Collectorate Office, Aurangabad.
5. The Tahsildar, Tahsil Office,
Paithan, Tq. Paithan, Dist. Aurangabad.
6. The Talathi, Talathi Sajja Nathnagar,
Jaikwadi (North), Tq. Paithan,
Dist. Aurangabad.
7. The Gramsevak,
Group Grampanchayat Office-Nathnagar,
Rahulnagar, Jaikwadi (North),
Tq. Paithan, Dist. Aurangabad.

.. Respondents

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

DATE : 11 MARCH 2026

ORDER :

. Present petition has been filed for following reliefs :-

“B] By issuing a writ of mandamus or any other appropriate writ, order or directions to respondents to regularize the Government (Gavthan) Land i.e. each and every petitioner admeasuring 1000 Sq. Ft. in the name of each petitioner from Gut No.113 to 126, situated at Nathnagar, Jaikwadi (North), Paithan, Tq. Paithan, Dist. Aurangabad in view of Government Resolution dated 20.08.2018 and 01.08.2025 and in view of Para No.7 of Government Resolution issued by Rural Development Department, Mantralaya, Mumbai.

C] The impugned notice dated 25.08.2025 issued by the Assistant Engineer, Class-II, Jaikwadi Project, Nathnagar, Jaikwadi (North), Tq. Paithan, Dist. Aurangabad whereby directing to the petitioners to remove the encroachment may kindly be quashed and set aside.”

2. We have heard the learned Advocate for the petitioners and learned AGP for respondent Nos.1 to 6/State.

3. The petitioners are contending that they are the landless persons and they are the members of Scheduled Caste and backward classes. They encroached upon the Government (Gavthan) Land in Gut No.113 to 136 in village Nathnagar, Rahulnagar, Sanjaynagar, Jaikwadi (North) Taluka Paithan, District Aurangabad. It is stated that the Grampanchayat had conducted panchanama on 19.10.2022, 22.11.2022 and 12.09.2025. According to the petitioners, they are at the said place since 1980. The Section Officer, Jaikwadi Camp Section, Nathnagar (North), Taluka Paithan, District Aurangabad had given a rent note on 15.03.1996 and the said agreement was continued by another Camp Section Officer, however, on 25.08.2025, the Executive Engineer and Assistant Engineer Class-II have issued the impugned notice, thereby asking the petitioners to remove their encroachment. Hence, the present petition.

4. Learned Advocate for the petitioner has taken us through the documents. He states that the Grampanchayat, Katpur in which Rahulnagar, Sanjaynagar and Dalwadi are situated. A resolution came to be passed on 19.10.2022 thereby giving opinion that the petitioners are staying there since last 40 years and, therefore, the panchanama should be prepared. Even it was stated in the resolution that the petitioners should not be rendered homeless. He is relying on the Tax Assessment list prepared by the Grampanchayat and submits that even the

Government has different schemes, wherein the regularization is permissible and, therefore, the petitioners are entitled to get their encroachment regularized.

5. The first and the foremost fact that is required to be noted is that there is not a single document on record which would show that the petitioners are there at the place allegedly encroached upon since 1980. Some document i.e. the agreement which is stated to be executed on 01.03.1996 is on record, which appears to have been between the Section Officer, Camp Section, Nathnagar (North), however, it does not bear the name of any petitioner. This agreement also pertains to tenancy, and if such status is taken into consideration, a tenant has no right to seek regularization, as he cannot make an encroachment or said to have made any encroachment. Merely because the petitioners have been paying some taxes to the Grampanchayat, that does not make their structure legal. As regards the resolution of the Grampanchayat, Katpur is concerned, it can be seen that the land does not belong to the Grampanchayat and it appears that the petitioners though saying that it is Gairan land, which was encroached upon, the impugned notice indicates that it is the land which was the Government Land for Jaikwadi Project. The notice dated 03.11.2025 specifically states that it was the land for Jaikwadi dam i.e. Jaikwadi Prakalpa, Paithan. So

Grampanchayat had no authority to pass any resolution or even carry out the panchanama in respect of the said land or property. Thus, there appears to be no proper and legal documents produced on record to support the contention of the petitioners. It also appears that there is no representation that was made with the appropriate authority by the petitioners for regularization at the appropriate stage. Under such circumstance, we do not find that case is made out for exercise of powers under Article 226 of the Constitution of India. However, at the same time, we grant liberty to the petitioners to approach the appropriate authority with appropriate application, which then would be decided by the said appropriate authority within a reasonable period.

6. With these observations, the writ petition stands dismissed.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm