

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

WRIT PETITION NO.10584 OF 2024

Mahindra United World College of India
(MUWCI)

.. Petitioner.

Versus

State of Maharashtra & Others

.. Respondents.

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Mr. Zal Andhyarujina, Senior Advocate with Ms. Maithili Parikh, Mr. Abhijit Patil, Ms. Ashwini Jadhav and Mr. Jagdish G. Aradwad (Reddy), for the Petitioner.

Mr. N. C. Walimbe, Addl. Government Pleader with S. D. Chipade, AGP for Respondent Nos. 1 to 9-State.

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**

DATE: JANUARY 14, 2026

P. C.

1 At the outset, we must say that we had heard the above matter finally on 8th January, 2026 and had placed it on board today for passing orders. However, in the meanwhile, the assignment has changed and the assignment of the present matter is no longer before us. However, all the parties state that since the matter has been fully heard by us, we should proceed to pass orders in the above Writ Petition. Accordingly, we have proceeded to pass the order.

2. **RULE.** Respondent waives service. With the consent of the parties, Rule is made returnable forthwith and heard finally.

3 By this Writ Petition, the Petitioner seeks an order and direction to set aside Mutation Entry No. 1697 dated 7th March 2001 pertaining to Survey Nos. 102, 113, 115/1, 115/2, 116/1, 116/2, 141/4, and 143 admeasuring nearabout 24.35 hectares at Village Khubawali, Taluka Mulshi, District Pune (for short the “**said lands**”). By the impugned Mutation Entry, the name of the Petitioner has been deleted and the remark of “*private forest*” has been recorded by Respondent No. 5 without notice to the Petitioner. The Writ Petition further challenges and seeks to set aside the notices/orders, which are consequential to the above impugned Mutation Entry, which are as follows: (i) the Impugned Notice dated 27th November 2002 of Respondent No. 9 *inter alia* prohibiting non-forestry work on the said lands; (ii) Impugned Order dated 4th January 2018 of Respondent No. 9 which *inter alia* held that it is necessary to take prior permission of the Central Government to change the remark of “*private forest*” in view of the Notification of the Ministry of Central Environment, Delhi dated 19th March 2014 which mentions that the Forest Conservation Act, 1980 is applicable in

respect of areas having “*private forest*” remark; and (iii) Impugned Order dated 21st December 2023 of Respondent No. 4, with respect to the Petitioner’s application for recording the Petitioner’s name in the 7/12 Extract in respect of the said lands, which *inter alia* held that for approving mutation entries, an appeal before the higher court is necessary.

4 According to the Petitioner, without any notice issued under Section 35(3) of the Indian Forest Act, 1927 (“**Indian Forest Act**”), the said lands were treated as forest lands by the State Government. As such, according to the Petitioner, the impugned Mutation Entry was made without following the due process in law and, as a result, is contrary to law.

5 It is the case of the Petitioner that possession of the said lands has at all times been with the Petitioner, and has never been taken by the State Government. It is further submitted that the Petitioner’s college campus is on the said lands, and hundreds of students are enrolled every year to study at this campus since 1997. The Petitioner has also placed on record material and photographs to show that at the

time of grant of Non-Agricultural permission in 1996, and at the time of construction of the college sometime in 1996, which was subsequently inaugurated in 1997, the said lands were barren and developed lands, and not forest lands.

6 Respondent Nos. 1 to 4, revenue authorities, have filed a common Reply dated 23rd July 2025. Respondent Nos. 6 to 9, the relevant forest authorities, have also filed a common Reply dated 12th November 2025. In Respondent Nos. 6-9's Reply, with regard to the aspect of notice under Section 35(3) of the Indian Forest Act, paragraph 4 states that *"any notice u/s 35 (3) if issued has not been traced."* Paragraph 6 also states that *"any notice issued u/s 35 (3) issued has not been traced out"*. Paragraph 27 states that *"in order to vest any land in the State Government it is not mandatory that a notice u/s 35 (3) of the Indian Forest Act must have been served on the owner of the land and that a hearing ought to be given to the owner."*

7 With respect to the facts, the Petitioner submits that the Petitioner purchased the said lands from one Aditya Maharaj Singh and his family by registered Conveyance Deeds executed in the years 1996

and 1998. Mutation entries to this effect were also effected, and the Petitioner's name was entered on the Mutation Register with respect to the said lands as owner. On 13th November 1996, the Petitioner obtained Non-Agricultural permission for construction of college premises on a portion of the said lands, and the Petitioner thereafter constructed and commenced its educational institutions which has been functioning since. This includes construction of hostels, buildings for this purpose, sports and medical facilities on the said lands. On 7th March 2001, without any notice to the Petitioner, Mutation Entry No. 1697 was effected by Respondent No. 5, with respect to the said lands, vide which the name of the Petitioner was deleted and the remark of "*private forest*" has been recorded. On 27th November 2002, Respondent No. 9 issued a Notice to the Petitioner stating that no non-forestry work was permitted on the said lands. On 27th March 2015, the Petitioner filed a Right to Information ("RTI") Application *inter alia* requesting information with respect to notices issued under Section 35(3) of the Indian Forest Act, 1927 and record of hearing given to owners of the said lands. On 4th April 2015, a response with respect to the RTI Application was issued and *inter alia* stated that "*At present, the said 35(3) notice is not found in the available office record*". On 4th January

2018, Respondent No. 9 passed an order *inter alia* that if a “*private forest*” remark is to be changed, and the name of the Petitioner is to be entered in the 7/12 records, prior permission from the Central Government is necessary. By a further response to the RTI Application, dated 11th May 2023, the Pune Forest Department provided copies of private forest records and the Golden Register. On 6th April 2023, the Petitioner applied before Respondent No. 4 for correcting the revenue records to show the name of the Petitioner. Respondent No. 4 dealt with the same by way of Order dated 21st December 2023 *inter alia* by which Respondent No. 4 held that the earlier entries were cancelled on the basis of the “*private forest*” entry, and the Petitioner would have to file an appeal before the higher court for any change. Aggrieved by the refusal to rectify the revenue entries, the Petitioner has filed this Writ Petition.

8 Mr. Andhyarujina, Ld. Senior Advocate for the Petitioner, in this factual backdrop, submits that the case of the Petitioner is covered by various judgments of the Hon’ble Supreme Court as well as that of this Hon’ble Court, which hold that it is mandatory that a notice under Section 35(3) of the Indian Forest Act is not only to be issued, but also

served, and without such notice, the said lands cannot be termed as a “*private forest*”. Accordingly, the Impugned Mutation Entry is invalid, and the subsequent and consequential impugned notices/orders are also liable to be set aside. In support of his submission, he relies upon the following judgments:

- a. *Rohan Vijay Nahar & Ors. v State of Maharashtra & Ors. [(2025) SCC Online SC 2366];*
- b. *M/s Jabs International Pvt. Ltd. v State of Maharashtra & Ors. [Bombay High Court Order in Writ Petition No. 706 of 2024 decided on 25th July, 2025]; and*
- c. *Rasik Narsingh Chauhan & Ors. v State of Maharashtra through its Secretary, Forest Dept. & Ors. [2025 SCC OnLine Bom 5508].*

9 Mr. Walimbe, learned AGP appearing for the State, on the other hand, has submitted that with respect to the issue of notice under Section 35(3) of the Indian Forest Act, the Reply filed by Respondent Nos. 6-9 dated 12th November 2025 states that the none can be traced. He further submits that Respondent No. 9’s Order dated 4th January 2018, which has been impugned by the Petitioner, has *inter alia* held that prior permission of the Central Government is necessary for the

‘*private forest*’ remark to be changed. As such, there could be no further action taken by State Government in this regard once the remark is already made.

10 We have heard the learned Counsel for the parties and also perused papers and proceedings in the above Writ Petition.

11 In *Rohan Vijay Nahar*, the Hon’ble Supreme Court recently considered Section 35(3) of the Indian Forest Act in detail and after going through the scheme of the Section, the relevant statutes, as well as previous judgments, held *inter alia* as follows:

13. We have gone through the comprehensive material on record, the submissions of the learned counsel for the appellants and for the respondent-State, as well as the impugned order of the High Court. Having done so, we are of the considered view that the impugned judgment of the High Court cannot be sustained for the following reasons:

13.1. In our opinion, the controlling legal position is settled. For vesting to occur under Section 3(1) of the MPFA Act on the footing of Section 2(f)(iii), a notice under Section 35(3) of the IFA must not only be issued but must also be served upon the landholder. The expression “issued” in Section 2(f)(iii) of the MPFA Act comprehends due service on the owner, because service alone triggers the owner's right to object, including the jurisdictional plea that the land is not a forest within Section 2(c-i) of the MPFA Act, and obliges the State to consider such objection. We are unable to agree with the High Court that the reproduction of a draft text of

Section 35(1) beneath a Section 35(3) show cause in the Gazette amounts to a concluded notification under Section 35(1) of the IFA. A notice that grants time for objections cannot coexist with a final decision under Section 35(1) without rendering the statutory hearing illusory. Mutation entries are ministerial in nature and cannot perfect an acquisition that lacks the statutory predicates. They neither create title in the State nor divest title from the private owner.

13.2. On the facts across these appeals, we find that the essential links in the statutory chain are missing. There is no proof of service of any Section 35(3) notice of the IFA on the then owners. There is no final notification under Section 35(1) of the IFA. Actual possession has at all times remained with private owners and this position is reflected in the revenue records that describe them as occupants. No possession was taken under Section 5 of the MPFA Act, no schemes were set in motion under Section 4, no compensation exercise was undertaken under Section 7, and no inquiry under Section 6 was held at a time proximate to the appointed day of 30 August 1975. The materials produced by the State include undated and unverified possession papers that do not inspire confidence when set against decades of undisturbed private possession. In one instance the State relies on a pipeline notice which was addressed to a person who was not the owner as on 29 or 30 August 1975. In another, the land forms part of an industrial estate converted to non-agricultural use long before 1975. In yet another, there was never any claim that a Section 35(3) notice was even issued. These features are wholly inconsistent with a completed vesting under Section 3(1) of the MPFA Act.

13.3. We are not persuaded by the Respondent State's reliance on post-hoc material. Satellite imagery and panchnamas drawn in 2016 do not establish the character of the lands on the appointed day, which is the only relevant date for Section 3(1) of the MPFA Act. A nineteenth century

notification, invoked for the first time at the appellate stage to suggest linkage with a reserved forest, was not the foundation of the impugned mutations and cannot be used to improve the case now. The administrative orders must stand or fall on the reasons originally given and the High Court could not sustain vesting on grounds that were never the basis of action. The absence of any notification under Section 34A of the IFA further weakens the State's position. We also find merit in the submission that a restoration under Section 22A of the MPFA Act presupposes a lawful vesting. When the foundational vesting is unproven, any purported restoration cannot cure the defect, and in any event the limited window created by Section 22A cannot be reopened decades later. Expropriatory legislation must be construed strictly and Article 300-A of the Constitution requires that no person is deprived of property save by authority of law. When a statute prescribes a manner of doing a thing, it must be done in that manner or not at all. Here, several mandatory steps are absent. Any one missing step would defeat vesting. The High Court was therefore in error in treating the case as if only a consequential mutation remained.

13.4. We are also unable to accept the distinctions drawn by the High Court. The binding ratio on service, on the need for a live process, and on strict compliance does not turn on whether an appellant is an original owner or a subsequent purchaser. It also does not turn on whether construction has occurred on the land. The State itself has, on earlier occasions, recognised that subsequent purchasers cannot be prejudiced by undisclosed proceedings which they had no means to discover. The record here shows that the revenue entries continued to carry the names of the private owners, which indicates that even the State did not treat these lands as vested forests. To hold that a subsequent purchaser is in a worse position than one who developed land would invert the logic of the statute and would reward illegality while penalising restraint. We reject that approach.”

12 As such, in light of the above decision in *Rohan Vijay Nahar (supra)*, there is no room for doubt that a notice under Section 35(3) of the Indian Forest Act is required to be both issued and served. Without this statutory predicate being followed, there is no question of the said lands vesting with the State Government. When a statute prescribes a manner of doing a thing, it has to be done in that manner or not at all, and any one step missing would defeat the vesting. The mutation entries cannot perfect an acquisition that lacks this statutory predicate.

13 In *Rasik Narsingh Chauhan* (in which one of us was a member of the Division Bench, i.e., Colabawalla J), this Court followed *Rohan Vijay Nahar (supra)* in a case where the facts were very similar to that of the present case. The Petitioners therein sought an order and direction for setting aside certain mutation entries, [which inserted the remark that for non-forest activities, the land owners would be required to obtain possession from the Central Government] on the ground that without any notice under Section 35(3) of the Indian Forest Act being duly served or without any notification under Section 35(1) of the Indian Forest Act, the lands concerned therein could not have been termed as a “*forest*” or “*private forest*” by these mutation entries. The

decision in *Rohan Vijay Nahar* was also considered. In its judgment, this Court considered the scheme of the relevant acts, the judgment in *Rohan Vijay Nahar*, and other relevant judgments. Thereafter, this Court *inter alia* held as follows:

“ 24. Having noted and given our anxious consideration to the contentions canvassed by the Respondents, even assuming for the sake of argument that the contentions of the Respondents had any substance, the same cannot be countenanced. We say this because after amendment of the Forest Conservation Act, 1980 [in 2023], by virtue of Section 1-A thereof, it is made clear that the said Act would apply (a) to lands that have been declared or notified as a forest in accordance with the provisions of the Indian Forest Act or under any other law for the time being in force, or (b) to any lands that are not covered under clause (a) but have been recorded in the Government record as a forest on or after 25th October 1980. It is not in dispute before us that the said lands of the Petitioner have not been declared or notified as a forest within the provisions of the Indian Forest Act or any other law for the time being in force. We say this because, admittedly, there is no declaration [on or before 30th August 1975] that the said lands are a forest under Section 34A of the Indian Forest Act, and neither is there any notification in relation to the said lands under Section 35(1) thereof. This position is undisputed. Further, no notice under Section 35(3) of the Indian Forest Act has been served in relation to the said lands. In other words, the said lands were never declared or notified as forests either under the Indian Forest Act or under the MPF Act. It is true that the said lands were recorded in the Government record as a forest pursuant to the directions that were given by the Hon'ble Supreme Court in the case of T.N. Godavarman (*supra*). However, from the record, we have ascertained that this was done not by actually visiting the said lands, but because the Government was of

the opinion that since they had issued the notice under Section 35(3) of the Indian Forest Act [but not served], the said lands were private forests.

25.

26. *We must mention that the Hon'ble Apex Court in Godrej Boyce Manufacturing Co. Ltd. (supra), in no uncertain terms held that if any land is to be termed as a "private forest" under Section 2(f) of the MPF Act, the conditions set out in said Section have to be complied with. The Hon'ble Supreme Court, while interpreting Section 2(f), has categorically held that it is not enough for a notice under Section 35(3) of the Indian Forest Act to be issued in relation to a particular land for it to be termed as a "private forest". The Hon'ble Supreme Court has clearly opined that under sub-clause (iii) of clause (f) of Section 2 of the MPF Act, the notice referred to therein is not only to be issued but also served on the owner of the land, before the land in question can be termed as a private forest. As mentioned earlier, in the facts of the present case, no notice under Section 35(3) was ever served [in relation to the said lands] for it to fall within the definition of the words "private forest" as understood under the MPF Act. Also, as mentioned earlier, there was no notification under Section 35(1) or a declaration under Section 34A of the Indian Forest Act notifying or declaring the said lands as a forest. Also, as mentioned earlier, even if we assume for the sake of argument that the said lands were notified as a forest pursuant to the directions given by the Hon'ble Supreme Court in T.N. Godavarman (supra), the said lands cannot fall within the ambit of the Forest (Conservation) Act, 1980 [as amended], because the same have been explicitly excluded pursuant to the proviso appearing under clause (b) of sub-section (1) of Section 1-A of the Forest (Conservation) Act, 1980 [as amended].*

27. *Hence, looking at this matter from any angle, the remarks in the impugned Mutation Entries that for non-*

forest activities the landowners would be required to obtain permission from the Central Government, are wholly unsustainable.

28. We must, before parting, mention that recently the Hon'ble Supreme Court in the case of Rohan Nahar (*supra*) has in fact taken a view that merely because a subsequent purchaser approaches the Court seeking relief that his particular land is not a forest, would not absolve the Government from establishing that the notice issued under Section 35(3) was not only issued but also served on the original land owners. In other words, the judgment of Hon'ble Supreme Court in Rohan Nahar (*supra*) has opined that the ratio in Godrej Boyce Manufacturing Co. Ltd. (*supra*) would equally apply even in the case of subsequent purchasers.

29. In view of the foregoing discussion, the remarks made in the impugned Mutation Entries and the 7/12 extract of the said lands to the effect that permission of the Central Government would be required for using the said lands for non-forest activities are unsustainable. Hence, the said remarks are hereby directed to be quashed and the said remarks shall be deleted from the impugned Mutation Entries and the 7/12 extract.”

14 The decision of this Court in *Jabs International (supra)*, while being prior to the Hon'ble Supreme Court's decision in *Rohan Vijay Nahar*, also holds that service of the notice under Section 35(3) of the Indian Forest Act is mandatory on the owners of the land. It also relies on the Hon'ble Supreme Court's decision in ***Godrej and Boyce Manufacturing Co. Ltd v/s. State of Maharashtra [(2014) 3 SCC 430]***. The decision of *Godrej and Boyce Manufacturing Co. Ltd (supra)*, has

been clarified in *Rohan Vijay Nahar (supra)*, to apply equally even in the case of subsequent purchasers, and holds that merely issuing a notice under Section 35(3) of the Indian Forest Act would not make the land a “*Private Forest*”.

15 In the present case, there is no controversy on whether the Section 35(3) notice was served as admittedly none can be traced. Respondent Nos. 6-9 in their Reply have expressly so admitted. As such, where no notice can be traced out, there is no question of service.

16 As far as the stand taken by Respondent Nos. 6-9 in their Reply, that the notice under Section 35(3) of the Indian Forest Act is not to be mandatorily served, the same is contrary to the settled law as set out above and as such merely stated to be rejected.

17 Further, and in any case, apart from the aspect of notice as discussed above, actual possession has also at all times remained with the Petitioner/private owners. There is also no material to show any final notification, vesting, taking of possession, schemes, compensation exercise being undertaken, and inquiry being held.

18 With respect to the Mr. Walimbe's submission that once the remark is made, Central Government permission is required and his reliance on Respondent No. 9's Order dated 4th January 2018 in this regard is incorrect. The said order is consequential to the Impugned Mutation Entry, and a plain reading of it also evinces the same. Therefore, if the remarks in the Impugned Mutation Entry itself are unsustainable in law, Respondent No. 9's Order dated 4th January 2018 and all other consequential orders/notices, which have also been impugned by the Petitioner as seen above, would also be unsustainable as a result. As such, it does not further the defence of the State in any way.

19 At this stage, Mr. Walimbe submits that as in the case of *Rohan Vijay Nahar (supra)*, the State Government should be granted liberty to initiate proceedings in accordance with the law and bring them to a logical conclusion. We find this submission to be without merit. In *Rohan Vijay Nahar (supra)*, there was a batch of 96 civil appeals which arose from this Court in a group of writ petitions. Each of these were at different stages and in different facts, and in many of them notices had been historically issued. It was in those circumstances

that the liberty had been granted. In the present case, the notice under Section 35(3) itself has not been traced, let alone other actions that are required to follow. The Petitioner has shown us that an entire college campus stands on the said lands since 1997. As such, the question of granting such liberty does not arise in the peculiar facts of the present case.

20 Considering the facts and circumstances of the present case, and the discussion above, we are of the view that the above Writ Petition deserves to be allowed. It is accordingly allowed in terms of prayer clauses (a) to (c) of the Writ Petition which are reproduced below:

“(a) This Hon’ble Court be pleased to issue a writ of certiorari or any other appropriate writ, order or direction in the like nature under Article 226 of the Constitution of India calling for the records and proceedings pertaining to the impugned Mutation Entry No. 1697 dated 07.03.2001 in respect of Petitioner’s property bearing Survey No.102, 113, 115/1, 115/2, 116/1, 116/2, 141/4 and 143 and Survey No. 115/1 & 115/2 admeasuring nearabout 24.35 hectors, situated at village Khubawali, Taluka Mulshi, Dist. Pune and after examining the validity, legality and propriety thereof, the same be quashed and set aside.

(b) *This Hon'ble Court be pleased to declare that the Petitioner's subject lands bearing Survey No.102, 113, 115/1, 115/2, 116/1, 116/2, 141/4 and 143 and Survey No. 115/1 & 115/2 admeasuring nearabout 24.35 hectars, situated at village Khubawali, Taluka Mulshi, Dist. Pune are not private forests within the meaning of Section 2(f)(iii) of the Maharashtra Private Forests (Acquisition) Act, 1975.*

(c) *This Hon'ble Court be pleased to issue a writ of certiorari or any other appropriate writ, order or direction in the like nature under Article 226 of the Constitution of India, calling for the records and proceedings relating to (i) Order dated 27.11.2002 passed by the Forest Officer, directing the Petitioner not to use the subject properties and Survey No. 115/1 and Survey No. 115/2 for the purpose other than forest (ii) Order dated 04.01.2018 passed by the Range Forest Officer, At Post Poud, Taluka Mulshi, Dist. Pune, asserting that in view of the communication from the Central Government dated 19.03.2014, the name of the Petitioner's college cannot be entered into 7x12 extract in respect of the subject properties in view of Notification dated 19.03.2014 without prior permission from the Central Government since the subject properties are treated as private forest (iii) Order dated 21.12.2023 passed by the Tahsildar, Mulshi (Paud) informing the Petitioner that their name cannot be entered as owner in respect of Survey No. 102, 113, 116/1, 116/2, 141/4 and 143 and the Petitioner is required to file appeal against Mutation Entries before the competent Appellate Authority and after examining the validity, legality and propriety thereof, the same be quashed and set aside."*

21 As a consequence, we also direct Respondent Nos. 2 to 5, the revenue authorities herein, to carry out the requisite changes in the

Mutation Entry No. 1697 dated 7th March 2001, so as to not reflect the said lands of the Petitioner as “Private Forest” and delete the said remark. Consequently, the name of the Petitioner shall be inserted which was deleted pursuant to the Mutation Entry No. 1697.

22 We further direct Respondent Nos.6 to 9, the forest authorities herein, not to treat the said land of the Petitioner as Private Forest land and direct that they take necessary steps to correct their record. Additionally, we direct Respondent Nos. 2 to 5 to correct the Revenue Record as per the directions given herein and give effect to the same in the 7/12 extract.

23 The Petitioner has submitted that it is in urgent need of upgradation of facilities at its campus, and this has remained pending due to the Impugned Mutation Entry and its consequential and subsequent actions. Considering the aforesaid facts, we order that, the above directions shall be carried out by the Respondent authorities within a period of 12 weeks from the date of uploading of this order on the High Court website.

24 Rule is made absolute in the aforesaid terms, and the

present Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

25 This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONTIWALLA, J.]

[B. P. COLABAWALLA, J.]