

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

SUO MOTU PUBLIC INTEREST LITIGATION NO. 2 OF 2022

High Court on its Own Motion	}	Petitioner
versus		
The State of Maharashtra and Ors.	}	Respondents

Mr. Ashutosh M. Kulkarni, *Amicus Curiae*.

Mr. P. P. Kakade, Government Pleader with Mr. M. M. Pabale, AGP for State.

**CORAM: DIPANKAR DATTA, CJ. &
MADHAV J. JAMDAR, J.**

DATE: OCTOBER 6, 2022

P.C.:

1. In deference to our order dated 15th September 2022, Mr. R. S. Chavan, Joint Secretary, Revenue and Forest Department, Government of Maharashtra has filed an affidavit.

2. Under paragraph 6 of such affidavit are 3 (three) tables. The first table refers to the number of encroachments on Gairan/Government lands that have been removed between 12th July 2011 and 15th September 2022. The number is 24,513. The second table refers to the extent of regularization of encroached area till 12th July 2011. The number indicated is 12,652. However, the most alarming feature is found in the third table, which suggests that there are 2,22,153 illegal constructions on Gairan lands and the approximate encroached area measures 10,089 hectares.

3. Mr. Kulkarni, learned *Amicus Curiae* is right in pointing out that neither the basis for regularization of 12,652 encroachments till 12th July 2011 has been indicated in the affidavit nor has the deponent indicated with any degree of clarity what step/measure is in the contemplation of the Government of Maharashtra to remove the high number of encroachments, i.e., 2,22,153, and make 10,089 hectares land free from encroachments.

4. Having perused the affidavit of the Joint Secretary and bearing in mind the submissions advanced by Mr. Kulkarni, learned *Amicus Curiae* and Mr. Kakade, learned Government Pleader appearing for the respondents, we are of the considered opinion that there has only been a partial compliance of the directions issued by the Supreme Court in its decision in **Jagpal Singh and Ors. vs. State of Punjab and Ors.**, reported in (2011) 11 SCC 396.

5. In view of the aforesaid satisfaction reached by us, we make the following order: -

(i) There shall be no further regularization of any encroachment by any authority/officer of the Government until further orders of this Court, except in the manner directed by the Supreme Court in **Jagpal Singh** (supra).

(ii) The Government of Maharashtra shall file a further affidavit indicating therein the basis for regularization of 12,652 encroachments till 12th July 2011 within 4 (four) weeks from date.

(iii) In such affidavit, the Government of Maharashtra shall refer to the policy taken by it for removal of

2,22,153 encroachments on Gairan together with the road-map which it proposes to draw so as to facilitate removal of all encroachments by the end of this year.

(iv) The Government of Maharashtra shall ensure that no further encroachments on Gairan lands take place, failing which this Court may be constrained to take appropriate steps against the persons responsible for checking that such encroachments do not take place.

(v) It would desirable if a notice is issued by the Government of Maharashtra informing all its officers posted in the appropriate departments to keep a check on further encroachments on Gairan lands.

6. List the PIL petition on **17th November 2022** for reporting compliance of this order.

(MADHAV J. JAMDAR, J.)

(CHIEF JUSTICE)

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signed by
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