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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.8945 OF 2016

Vishwanath s/o Bhavanaji Thorat,
deceased, thr. L.Rs.

1. Gayabai w/o Vishwanath Thorat,
Age: 70 years, Occu: Household,
R/o. Bhendegaon, Tq. Vasmat,
Dist. Hingoli
2. Bhagwan s/o Vishwanath Thorat,
Age: 50 years, Occu: Labour,
R/o Bhendegaon, Tq. Vasmat,
Dist. Hingoli
3. Gautam s/o Vishwanath Thorat,
Age: 48 years, Occu: Service,
R/o Bhendegaon, Tq. Vasmat,
Dist. Hingoli
4. Uttam s/o Vishwanath Thorat,
Age: 44 years, Occu: Labour,
R/o Bhendegaon, Tq. Vasmat,
Dist. Hingoli

....PETITIONERS

VERSUS

- 1] The State of Maharashtra,
Through Secretary, Revenue and Forest
Department, Mantralaya, Mumbai – 32
- 2] The Collector,
Hingoli, District Hingoli
- 3] The Sub-Divisional Officer,
Vasmat, Dist. Hingoli
- 4] The Tahsildar,
Vasmat, Tq. Vasmat,
Dist. Hingoli

....RESPONDENTS

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Mr Vithal P. Kadam , Advocate for Petitioners
Ms J. P. Reddy, AGP for Respondents/State

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**CORAM : KISHORE C. SANT
AND
SUSHIL M. GHODESWAR, JJ.**

**RESERVED ON : 06th MARCH 2026
PRONOUNCED ON : 26th MARCH 2026**

JUDGMENT (PER : SUSHIL M. GHODESWAR, J.) :-

1. Heard learned Advocate Mr Kadam for the petitioners and learned AGP Ms Reddy for respondents/State.
2. Rule. Rule made returnable forthwith. By consent of learned Advocates for the respective parties, being heard for final disposal.
3. By this writ petition, the petitioners are challenging the order dated 16/03/2016 issued by the learned District Collector, Hingoli wherein respondent No.2/Collector disqualified the original petitioner/Vishwanath for being regularizing his encroachment at Gut No.271, admeasuring 0.30 Are, situated at Mouje Bhendegaon, Tq. Vasmat, Dist. Hingoli.
4. According to the petitioner, he had encroached Gayran land at Gut 271 admeasuring 0.30 Are situated at village Bhendegaon,



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Tq. Vasmat, Dist. Hingoli since 1977 and having possession over the same. He has candidly made a statement that, since 1977, he is cultivating the said land. It is the submission of the petitioner that he had made request to the authorities for regularizing his possession over the gayran land and proposal to the authorities accordingly came to be submitted in the year 2002. Respondent No.4/Tahsildar Vasmat, submitted his report to respondent No.3/Sub-Divisional Officer, Vasmat on 22/01/2002 alongwith necessary documents. However, since there were certain deficiencies in the proposal, the Sub-Divisional Officer, Vasmat issued a letter dated 07/11/2002 to the Tahsildar, Vasmat for removing the said deficiencies. Again, the Collector, Hingoli informed the Sub-Divisional Officer, Vasmat vide letter dated 06/11/2003 to comply with the deficiencies and submit report. According to the petitioner, the spot panchnama came to be conducted and panchnama itself shows that the petitioner had encroached on gayran land. The villagers also had no objection as regards cultivation by the petitioner on the said gayran land. The Collector also issued proclamation dated 18/09/2010 inviting objections from public. Despite Revenue Authorities possessing sufficient record in favour of the petitioner, still respondent No.2/Collector, without considering the proposal and the reports of the



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Revenue Authorities and the record therein, rejected the proposal of the petitioner vide impugned order dated 16/03/2016 on the ground that the proposal of the petitioner is not in accordance with the Government Resolution dated 28/11/1991.

5. Mr Kadam learned Advocate for the petitioners submits that the learned Collector has regularized the encroachment of the similarly situated person, namely, Ganga Mahadu Thorat. However, despite showing sufficient record in favour of the original petitioner, the respondent/Collector has passed the impugned order, thereby violating the fundamental rights of the petitioner.

6. Learned Advocate for the petitioners relies on the order dated 25/07/2024, passed by this Court in Writ Petition No.5099/2024 (Nandkishor Dhonduji Salwe Vs. The State of Maharashtra and others). In an identical situation, this Court had directed the respondents/authorities to consider the petitioner's claim therein for regularization of occupation over the subject land by passing a reasoned and speaking order, strictly in accordance with law. The petitioner herein also is claiming similar order. Thus, learned Advocate for the petitioners prays for allowing this writ petition.



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7. Per contra, learned AGP Ms Reddy for respondents/State opposes the petition stating that, in view of the judgment delivered by the Hon'ble Apex Court in the matter of **Jagpal Singh and others Vs. State of Punjab and others, (2011) 11 SCC 396** and in view of the Government Resolution dated 12/07/2011, the encroachment made on the gayran land cannot be regularized. She submits that the petitioners have failed to show to the authorities that they are possessing such land since 1971 and they are continuously cultivating the same for own use. She further submits that the order passed by the Collector is correct and proper and requires no interference by this Court and accordingly prays for dismissal of the petition.

8. After hearing the learned Advocates for the respective sides, we have gone through the material placed before this Court. Before discussing further, it would be worth to mention here that, in an identical petition, this Court at Aurangabad Bench in Writ Petition No.5099/2024 (supra), dealt with similar situation. In the said petition, it was observed that the petitioner therein had made application seeking regularization prior to the issuance of the Government Resolution dated 12/07/2011, wherein the Divisional Commissioner had directed to consider the application of the petitioner. Considering the similar situation, this Court had issued



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directions to the Collector to consider the claim of the claimant therein for regularization of his occupation over the subject land by passing a reasoned and speaking order, strictly in accordance with law. The collector therein, was further directed to call upon requisite documents and record from his subordinates and was also directed to provide opportunity of hearing to the petitioner therein. It was also directed to complete the said exercise within a period of three months from the date of order.

9. However, though the situation emerging in the instant petition is identical, what we have noticed in this case is that, the panchnama conducted by the Revenue Authorities discloses that the original petitioner Vishwanath was possessing the encroached land admeasuring 0.30 Are and is cultivating the same for his own purpose. Even the Tahsildar Vasmat had also issued notice dated 07/09/1977 to the various encroachers including original petitioner Vishwanath, directing them to remove the encroachment. Even panchnama carried out through the Talathi, it was noticed that the present petitioner is possessing the land situated at Survey No.271 admeasuring 30 Are, prior to 1990. In pursuance to the proceedings initiated for regularization, the Tahsildar as well as the Sub-Divisional Officer, Vasmat, both have recommended to regularize the encroachment of the



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petitioner at Gut No.271 of Bhendegaon by observing that the original petitioner is possessing the said land since 01/04/1978 and the same is under cultivation till date. The said proposal was duly submitted to the Collector vide the letter dated 10/02/2014. Again similar exercise was repeated by removing the deficiencies and accordingly, the matter was referred to the Collector for regularizing the encroachment.

10. All the aforesaid record goes to show that the original petitioner/Vishwanath was very much in possession of the land situated at Gut No.271, admeasuring 0.30 Are at village Bhendegaon, Tq. Vasmat, Dist. Hingoli. It is also pertinent to mention here that the petitioner is landless and belonging to scheduled caste. The Government has issued the Government Resolution dated 12/07/2011 in pursuance of the judgment of the Hon'ble Apex Court in the matter of **Jagpal Singh and others** (supra). The Hon'ble Apex Court has observed that the State Government to prepare claim for regularizing the encroachment in permissible exception, where the land under use of landless labourers and members of scheduled castes and scheduled tribes persons. In that view of the matter, we feel it appropriate to direct the Collector to consider the case of the petitioner and pass a suitable order by considering each and every aspect of the matter.



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Thus, this writ petition deserves to be allowed. Hence, we pass the following order :-

ORDER

- (I) The writ petition stands allowed.
- (II) The impugned order dated 16/03/2016 passed by respondent No.2/Collector, Hingoli is hereby quashed and set aside.
- (III) The Collector, Hingoli is hereby directed to consider the case of the petitioners alongwith proposal submitted by his subordinate officers like Sub-Divisional Officer and Tahsildar and also to consider panchnama carried out by the Revenue Authorities, and pass a suitable order within a period of three months from today, by giving opportunity of hearing to the petitioners.
- (IV) No order as to costs.

11. Rule is made absolute in above terms.

[SUSHIL M. GHODESWAR, J.]

[KISHORE C. SANT, J.]

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