

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

Writ Petition (Civil) No. 748 of 2016

Maharashtra Rajya Vadar Samaj Sangh .Appellant(S)

Versus

Union of India & Ors. ..Respondent(S)

J U D G M E N T

M. R. Shah, J.

1. By way of this writ petition under Article 32 of the Constitution of India petitioner has prayed for an appropriate writ direction and/or order to quash and set aside the Government Resolution dated 12.07.2011 passed by the Revenue and Forest Department, Government of State of Maharashtra.

2. At the outset it is required to be noted that considering the directions issued by this Court in the case of **Jagpal Singh and Ors. Vs. State of Punjab and Ors.;** (2011) 11 SCC 396, the State of Maharashtra has issued the impugned Government Resolution dated 12.07.2011 under which a decision is taken that the encroachments or unauthorized construction on barren land/grassy land and on the common village land may be removed immediately and proceeding may be started through local Gram Panchayat, Municipal Council, Nagar Parishad etc., by preparing special program. It is further resolved that henceforth the barren land or land utilized for public only may be considered only if non-availability of other lands for public utility and public purpose run by the various Departments of Central and State Governments and that the barren lands/grassy lands or the land under utilization of the villagers shall not be approved to any

person, private institute, organization for any motive/purpose.

2.1 In the case of **Jagpal Singh** (supra) this Court issued the directions to protect the barren lands/grassy lands to be utilized for cattle to be used for public only. This Court directed to all the State Governments in the country that they should prepare schemes for eviction of illegal/unauthorized occupants of the Gram Sabha/Gram Panchayat/poramboke/ shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. The Chief Secretaries of all the State Governments were directed to do the needful. In line with the said directions the State of Maharashtra has issued the impugned resolution.

3. It is the case on behalf of the petitioner that the petitioner is established for the welfare of “Vadar” community within the State of Maharashtra. It is the

case on behalf of the petitioner that Vadar community has been notified as Nomadic Tribe by the State Government and whose ancestor family profession is stone crushing, removing stone, etc. That in exercise of powers conferred under Section 15 of the Mines and Minerals (Development and Regulation) (MMDR) Act, 1957, the State of Maharashtra has framed the Rules titled as the Maharashtra Land Revenue (Extraction and Removal of Minor Minerals) Rules, 1968 (hereinafter referred to as the Rules, 1968). As per Rule 4A, family of Vadar community can remove stone up to 200 brass annually by stone crushing by hand, without payment of any fee or royalty, however, with the previous permission and writing of the Collector or Additional Collector as the case may be, from any private land or un-assessed Government waste land not assigned for special purposes under Section 22 of the Maharashtra Land Revenue Code, 1966.

3.1 It is the case on behalf of the petitioner that the family of the Vadar communities were granted lease/permission for mining which were renewed from time to time. It is the case on behalf of the petitioner that however, on misreading and/or mis-interpretation of the decision of this Court in the case of **Jagpal Singh** (supra) and in view of the impugned Government Resolution dated 12.07.2011, the family of Vadar community are not granted any lease and/or the lease are not renewed. Therefore, it is the case on behalf of the petitioner that the impugned Government Resolution takes away the right available to the family of the Vadar community conferred under Rule 4A of the Rules, 1968.

4. Having heard Shri Vijay Kumar, learned Senior Advocate appearing on behalf of the petitioner and Shri Sanjay Kharde, learned counsel appearing on behalf of the respondent – State and having gone through and considered the impugned Government Resolution read

with Rule 4A of the Rules, 1968, we are of the opinion that the impugned Government Resolution cannot be said to be illegal and/or taking away any of the rights conferred upon the family of the Vadar community conferred under Rule 4A of the Rules, 1968. The impugned Government Resolution dated 12.07.2011 is absolutely in consonance with the directions issued by this Court in the case of **Jagpal Singh** (supra) contained in para 23. Para 23 of the decision in the case of **Jagpal Singh** (supra) reads as under: -

“**23.** Before parting with this case we give directions to all the State Governments in the country that they should prepare schemes for eviction of illegal/unauthorised occupants of the Gram Sabha/Gram Panchayat/poramboke/shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. For this purpose the Chief Secretaries of all State Governments/Union Territories in India are directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupant, after giving him a show-cause notice and a brief hearing. Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or for regularising the illegal possession. Regularisation should only be

permitted in exceptional cases e.g. where lease has been granted under some government notification to landless labourers or members of the Scheduled Castes/Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land.”

4.1 If the impugned Government Resolution is seen, it is specifically with respect to the barren lands/grassy lands belonging to the Gram Sabha/Gram Panchayat and/or the Government’s barren lands and grassy lands to be used for public utilization and to be used for public only.

4.2 So far as the reliance placed upon the Rule 4A of the Rules, 1968 is concerned, on a fair reading of Rule 4A it provides that the family of Vadar community for the purpose of its traditional profession of stone crushing by hand can remove stone up to 200 brass annually, from any private land or un-assessed Government waste not assigned for special purposes under Section 22 of the Maharashtra Land Revenue Code, 1966, without payment of any fee or royalty, however, with the previous permission and writing of the Collector or

Additional Collector as the case may be. However, the same shall not be applicable with respect to the barren lands or the grassy lands, any village lands owned by the Gram Panchayat/Gram Sabha and/or the Government or any un-utilized Government land to be used for public utility or the land under utilization of the villagers. Rule 4A also does not provide for any lease of barren/grassy lands belonging to the Gram Sabha/Gram Panchayat. The object and purpose of Rule 4A would be permitting the family of Vadar community to continue their traditional profession of stone crushing by hand by extracting the stone up to 200 brass annually without payment of any fee or royalty. The Rule 4A is not meant for the lease for commercial use. Therefore, we are of the opinion that the impugned Government Resolution dated 12.07.2011 cannot be said to be illegal as sought to be canvassed on behalf of the petitioner. If any lease is not renewed in individual case and/or any action is

taken against individual and if any person is aggrieved, he can take recourse to law. By no stretch of imagination, the impugned Government Resolution which according to us is in consonance with the directions issued by this Court in the case of **Jagpal Singh** (supra) cannot be said to be illegal.

5. In view of the above and for the reasons stated above subject to observations made hereinabove, the present writ petition stands dismissed/disposed of.

.....J.
(M. R. SHAH)

.....J.
(M.M. SUNDRESH)

NEW DELHI,
NOVEMBER 24, 2022.