

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

**WRIT PETITION NO.1156 OF 2026**



1. Shri Akshay Ravindra Bornare  
Age: 28 years, Occupation: Advocate  
Resident of: 456, Karjod,  
Taluka Raver, District Jalgaon
2. Shri Prashant Nana Baviskar  
Age: 37 years, Occupation: Advocate  
Resident of: At village Paldhi,  
Taluka Jamner, District Jalgaon
3. Shri Madhukar Ratan Sapkale  
Age: 52 years, Occupation: Advocate  
Resident of: At Post Avhane,  
Taluka and District Jalgaon. ..Petitioners

**VERSUS**

1. The State of Maharashtra  
Through the Collector,  
Jalgaon, District Jalgaon
2. The Special Land Acquisition Officer,  
Minor Irrigation, Jalgaon,  
District Jalgaon
3. The Executive Engineer,  
[M.I.W.], Jalgaon,  
District Jalgaon.
4. Shri Shivcharan Manik Thakare  
Age: years, Occupation: Agriculture  
Resident of : At Pimpalgaon Bk.,  
Taluka Pachora,  
District Jalgaon. ..Respondents

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Mr. Rajendra Deshmukh, Senior Advocate a/w Ms. Ashwini  
Deshmukh i/b Mr. Mukul Kulkarni, Advocate for Petitioners  
Mr. A.B. Girase, Government Pleader for Respondent/State.

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**CORAM : S. G. CHAPALGAONKAR, J.**

**RESERVED ON : FEBRUARY 16, 2026**

**PRONOUNCED ON : MAY 06, 2026**

**JUDGMENT :-**

1. Rule. Rule made returnable forthwith and heard finally with consent of parties.

2. The petitioners impugn judgment and order dated 19.01.2026 passed by Civil Judge, Senior Division, Jalgaon in L.A.R. No.5 of 2025 to the extent of observations, findings and directions incorporated in Clause Nos.3 and 4 of operative part, whereby the Court directed District Collector, Jalgaon to lodge F.I.R./police report against all claimants in L.A.R. Nos.74 of 2017 to 81 of 2017 and L.A.R. Nos.5 of 2025 to 13 of 2025, so also directed Assistant Superintendent of Court to file separate complaints with Judicial Magistrate against claimants and advocates in respective claim petitions for offences committed on record of Court covered under Section 215 (1)(b) of Bhartiya Nagarik Suraksha Sanhita, 2023 ('BNSS' for short).

3. Brief facts giving rise to present writ petition are as under:

The State of Maharashtra initiated land acquisition proceeding for construction of Atalgavhan Minor Irrigation Tank. On 14.07.2011, notification under Section 4 was published and on 29.09.2012, award under Section 11 of Land Acquisition Act came to be passed. Aggrieved land owners made references under Section 18 of Land Acquisition Act seeking enhancement of compensation. The Reference

Court issued notice to respondents. They filed written statement opposing enhancement of compensation. During pendency of claim petition, respondents noticed that claimants in L.A.R. Nos.5 of 2025 to 13 of 2025 prepared forged and fabricated documents, hence, they filed additional written statement contending that L.A.R. Nos. 5 of 2025 to 13 of 2025 have been presented to District Court along with forged reference letters dated 12.03.2025, purportedly issued by SLAO. The SLAO, who was in-charge noted that her signature and letter head is manipulated document. The reference letter dated 12.03.2025 containing 9 references is bogus document.

4. Eventually, Reference Court framed additional issues 3A to 3C. Smt. Jayashri Mali, SLAO recorded her evidence before Court stating that claimants in L.A.R. Nos.5 of 2025 to 13 of 2025 or their advocates never submitted written applications/petitions to Collector, Jalgaon seeking reference for redetermination of compensation under Section 18 of Land Acquisition Act. All those references were directly presented to District Court with forged and fabricated reference letter dated 12.03.2025 in name of Land Acquisition Officer. She testified that even references presented in the year 2017 were presented with fabricated undated reference letters purported to be issued by Land Acquisition Officer, Minor Irrigation, Jalgaon vide Outward No. L.A.Q./S.R./32/07, Appendix VI, Statement under Section 11 and Index 18. All aforesaid documents bears forged stamp and signatures.

5. The SLAO was in depth cross-examined on behalf of claimants. The Reference Court after appreciating of evidence on record observed that claimants in all disputed references and their advocates have been interfering in administration of justice by preparing and producing forged and fabricated document for presentation claim for enhancement of compensation and mislead Court to pass wrong awards. The Court held that evidence on record is sufficient to form opinion that offences specified under Section 215 (1)(b) of BNSS have been committed by claimants and their advocates in all disputed references. The Court has further observed under Section 151 of Civil Procedure Code, Court is empowered to issue directions to make a complaint to police when serious offence of forgery appears to have been committed. Eventually, impugned directions have been issued.

6. Mr. R.S. Deshmukh, learned senior advocate appearing for petitioners submits that petitioner no.1 is in practice since year 2023, petitioner no.2 entered profession in year 2012 and petitioner no.3 is in practice since 2018. They filed their vakalatnamas during pendency of references. Apparently, claim petitions were presented by previous advocates along with so-called forged reference letters. The petitioners were not representing claimants in L.A.R. No.5 of 2025. The petitioners were not given opportunity to cross-examine witnesses or opportunity of hearing before issuing impugned

directions. The learned Presiding Officer of Reference Court acted as whistle blower and also decided the case. The impugned directions and findings have drastic effect like putting stigma on petitioners career and reputations. Hence, it is urged to allow writ petitions by setting aside impugned directions. In support of contentions, Mr. Deshmukh relies upon observations of Hon'ble Supreme Court in case of *Neeraj Garg Vs. Sarita Rani and Ors* reported in *AIR 2021 SC 3593*, *The State of Uttar Pradesh Vs. Mohammad Naim* reported in *AIR 1964 SC 703* and in case of *Dushyant Mainali Vs. Diwan Singh Bora and Another in Civil Appeal (Arising out of SLP (C) No. 15191 of 2022 decided on 25.11.2024*.

7. Per contra, Mr. A.B. Girase, learned Government Pleader submitted that Reference Court upon scrutiny of evidence recorded in Land Acquisition Reference No.05 of 2025 arrived at a conclusion that there is sufficient material to form opinion that offences referred into Section 215 of BNSS have been committed. Eventually, issued directions to District Collector to take necessary action. Similarly, issued directions to Superintendent of Civil Court to file appropriate complaint before Magistrate. Mr. Girase would submit that in case of *Union of India Vs. W.N. Chadha* reported in *1993 Supp (4) SCC 260*, the Hon'ble Supreme Court observed that providing an opportunity of hearing to the accused in every criminal case before taking any action against them would frustrate the proceedings, obstruct taking of

prompt action as law demands, defeat the ends of justice and make the provisions of law relating to the investigation lifeless, absurd, and self-defeating. According to Mr. Girase, right of hearing before registration of FIR is not available to accused. In present case, observations made in impugned order and consequential directions are based on evidence recorded before Court, which is sufficient to form a prima facie opinion as to commission of offence and set law in motion by registering the FIR or filing complaint. In support of his contention, Mr. Girase heavily relies upon observations of Hon'ble Supreme Court in case of *State of Bank of India and Others Vs. Rajesh Agarwal and Others* reported in *(2023) 6 SCC 1*.

8. Having considered submissions advanced by learned advocates appearing for respective parties, it can be observed that impugned directions are given by Reference Court while deciding L.A.R. No.5 of 2025, which has been ultimately dismissed, petitioners herein are advocates practicing at Jalgaon District Court. The Reference Court issued directions to Collector to lodge FIR/police report through authorized officer against all claimants and their advocates in L.A.R. Nos. 74 of 2017 to 81 of 2017 and L.A.R. Nos.5 of 2025 to 13 of 2025, who are responsible for fabrication and manipulation of documents. Similarly, Assistant Superintendent of Court is directed and authorized to file separate complaint with Judicial Magistrate First Class against claimants and advocates in

L.A.R. Nos. 74 of 2017 to 81 of 2017 and L.A.R. Nos.5 of 2025 to 13 of 2025 for offences submitted on record of Court covered under Section 215(1)(b) of BNSS 2023.

9. The careful scrutiny of record in respect of aforesaid land acquisition references depict that references were presented by Advocate Kishore B. Patil along with disputed reference letter of Land Acquisition Officer and other disputed documents (at Exh.1, 1A to 1D, 64 to 100D). The Reference Court upon scrutiny of evidence of Smt. Jayashri, Incharge SLAO formed opinion that Advocate Mr. Kishore B. Patil and his Associates were having knowledge of forgery of aforesaid documents since inception and they used same as genuine for presentation of all disputed references (L.A.R. Nos.5 of 2025 to 13 of 2025 and L.A.R. Nos.74 of 2017 to 81 of 2017) before District Court and they have practiced or played fraud upon Court as well as respondents and obtained awards.

10. The record indicates that petitioner nos.1 & 3 were not representing claimants at the time when land acquisition references were submitted to Court. The copies of vakalatnama filed in claim petitions are placed into service before this Court. It is discernible that petitioner nos.1 & 3 have signed vakalatnama first time on 12.07.2024 or sometime during pendency of proceeding. It has been brought on record that petitioner no.1 is in practice since 2023, petitioner no.3 is in practice since 2018. As such, when land

acquisition references were presented to Court in 2015 to 2017, they were not even practicing advocates. So far as petitioner no.2 is concerned, he is said to be in practice from 2012 and his vakalatnama appears to have been filed in L.A.R. Nos.76 of 2017 and 77 of 2017 along with Advocate Mr. Kishore B. Patil. In view of the aforesaid factual backdrop, this Court finds that petitioner no.1 and petitioner no.3 cannot be held responsible for presentation of land acquisition references along with forged documents. There is no reason to form opinion that they have committed any offence on record of Court.

11. So far as second contention of petitioners that they were not given opportunity of hearing before issuing impugned directions or directions are issued without adherence to principles of natural justice, this Court finds that reference can be given to provisions of Section 340 of Criminal Procedure Code 1973 (Section 379 of BNSS, 2023) which reads thus :

*“340. Procedure in cases mentioned in Section 195. - When upon an application made to it in this behalf or otherwise any Court is of opinion that it is expedient in the interest of justice that an inquiry should be made into any offence referred to in clause (b) of Sub-Section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary, -*

*(a) record a finding to that effect;*

*(b) make a complaint thereof in writing;*

*(c) send it to a Magistrate of the first class having jurisdiction;*

*(d) take sufficient security for the appearance for the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do send the accused in custody to such Magistrate; and*

*(e) bind over any person to appear and give evidence before such Magistrate.*

*(2) The power conferred on a Court by Sub-Section (1) in respect of an offence may, in any case where that Court has neither made a complaint under Sub-Section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of Sub-Section (4) of section 195.*

*(3) A complaint made under this section shall be signed;*

*(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;*

*(b) in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf.*

*(4) In this section, "Court" has the same meaning as in section 195."*

12. In case of ***Iqbal Singh Marwah and Another Vs. Meenakshi Marwah and Another*** reported in ***(2005) 4 SCC 370***,

Hon'ble Supreme Court observed as under :

*"23. In view of the language used in Section 340 Cr.P.C. the Court is not bound to make a complaint regarding commission of an offence referred to in Section 195(1)(b), as the Section is conditioned by the words "Court is of opinion that it is expedient in the interest of justice." This shows that such a course will be adopted only if the interest of justice requires and not in every case. Before filing of the complaint, the Court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in Section 195(i)(b). This expediency will normally be judged by the Court by weighing not the magnitude of injury suffered by the person affected by such forgery or forged document, but having regard to the effect or impact, such commission of offence has upon administration of justice. It is possible that such forged document or forgery may cause a very serious or substantial injury to a person in the sense that it may deprive him of a very valuable property or status or the like, but such document may be just a piece of*

*evidence produced or given in evidence in Court, where voluminous evidence may have been adduced and the effect of such piece of evidence on the broad concept of administration of justice may be minimal. In such circumstances, the Court may not consider it expedient in the interest of justice to make a complaint. The broad view of clause (b)(ii), as canvassed by learned counsel for the appellants, would render the victim of such forgery or forged document remediless. Any interpretation which leads to a situation where a victim of a crime is rendered remediless, has to be discarded.”*

13. The substance of aforesaid extract is that before filing complaint for an offence referred in Section 195(1)(b), Court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in Section 195(1)(b) and having regard to the effect and impact of such commission of offence upon administration of justice, Court may consider to make a complaint. In case of ***The State of Punjab Vs. Jasbir Singh*** reported in ***(2020) 12 SCC 96***, Division Bench of Supreme Court after referring to case of ***Pritish Vs. State of Maharashtra*** reported in ***(2002) 1 SCC 253*** and ***Sharad Pawar Vs. Jagmohan Dalmiya*** reported in ***(2010) 15 SCC 290***, observed that there is conflict of view as to whether preliminary inquiry or opportunity of hearing to the person against whom complaint is to be made is mandatory under Section 195. Accordingly, reference was made to Larger Bench by framing following questions:

*(i) Whether Section 340 of the Code of Criminal Procedure, 1973 mandates a preliminary inquiry and an opportunity of hearing to the would-be accused before a complaint is made under Section 195 of the Code by a court?*

*(ii) What is the scope and ambit of such preliminary inquiry?*

14. The Full Bench of Supreme Court answered the aforesaid questions vide judgment dated 15.09.2022 and observed that judgment in Prithvi's case and the Constitution Bench judgment in Iqbal Singh Marwah's case (supra) have not been noted in order passed in Sharad Pawar's case (supra). The answer thus to the first question raised would be in the negative. Apparently, law laid down by Full Bench of Hon'ble Supreme Court in case of Prithvi (supra) notes that purpose of preliminary inquiry under Section 340 of Cr.P.C. was not to find out whether a person is guilty or not, but only to decide whether it was expedient in the interest of justice to inquire into the offence. It was thus observed that Court is not obliged to make a preliminary inquiry on a complaint, but if Court decides to do so, it should make a finding that on facts it is expedient in the interest of justice that offence should be further probed into.

15. The preliminary inquiry contemplated under sub-section (1) of Section 340 of Cr.P.C. is aimed to reach a finding whether it is expedient in the interest of justice to inquire into offence which appears to have been committed. Such an inquiry is not aimed to find out if a person is guilty or not. Apart from the aforesaid fact, on receipt of complaint to Magistrate under Section 340, he requires to deal it as if it is instituted on police report. The Magistrate requires to proceed under Section 238 to 243 of the Code. It is, therefore, clear

that Magistrate will have to satisfy himself after hearing the prosecution and accused, as to whether allegations against the accused are groundless. If he finds allegations to be groundless, he has to discharge accused at the stage of recording evidence. However, if Magistrate formed opinion in aforesaid inquiry that there is reason to presume that accused has committed offence, he has to frame charge in writing against the accused. If accused pleads not guilty, then Magistrate has to proceed to conduct the trial.

16. Thus, person against whom complaint is made has legal right to be heard whether he should be tried for the offence or not. Once Magistrate called the accused to appear before him, it is open for the person accused to satisfy Magistrate that allegations against him are groundless and that he is entitled to be discharged. In light of aforesaid scheme, there appears no statutory requirement to afford opportunity of hearing to the person against whom Court might direct to file a complaint before Magistrate for initiating prosecution proceedings. The scheme under Section 340 of the Code shows that inquiry contemplated under Section 340 is not for deciding guilt or innocence of parties against whom proceedings are to be taken before Magistrate.

17. Although Mr. Deshmukh, learned senior advocate appearing for petitioners relied upon observations of Hon'ble Supreme Court in case of Mohammad Naim (supra) and Dushyant

Mainali (supra) to contend that petitioners were entitled for opportunity of hearing and Courts including of highest Court of Country are bound by principles of natural justice. It is fairly settled that principles of natural justice are not applicable at the stage of reporting a criminal offence, as providing an opportunity of hearing to accused in every criminal case before taking any action against him would frustrate the proceedings, obstruct taking of prompt action of law, defeat the ends of justice and make provisions of law relating to investigation lifeless, absurd and self-defeating.

18. In light of aforesaid legal and factual matrix, it is difficult to countenance contentions of petitioners that impugned order is vitiated for want of adherence to principles of natural justice.

19. The impugned order depicts that Reference Court formed an opinion during course of trial of land acquisition references. The evidence was led on behalf of respondent authorities that documents tendered along with references were forged and fabricated. The In-charge SLAO stepped into witness box, proved the official record. She was cross-examined by advocate appearing on behalf of claimants. The Reference Court considered evidence tendered and formed an opinion about commission of offence in respect of documents produced in record of Court. The opinion formed by the Court is based on in-depth inquiry during course of trial of the reference. It cannot be treated as finding of guilt against the petitioners. It is well

settled that as a matter of course, the Court need not conduct preliminary inquiry before initiating action under Section 340, as the Court only decides whether it is expedient in the interest of justice to inquire into offence which appears to have been committed.

20. In result, this Court finds that there is no substance in contention of the petitioners that impugned directions are vitiated for want of adherence to principles of natural justice.

21. However, in light of fact that petitioner nos.1 and 3 had not even entered into practice when references were made to the Court and they signed vakalatnama before the Reference Court with intention to assist senior advocate who had presented claim petitions, no action is necessary against them. The impugned directions in Clause Nos.3 and 4 of order dated 19.01.2026 in L.A.R. No. 5 of 2025 deserves to be quashed and set aside to their extent only.

22. The petitioners raised one more objection that impugned directions would result into registration of two independent proceedings for one and the same offence, as directions are given to Collector to lodge FIR/police report and further directions are given to Assistant Superintendent of Court to file separate complaints with Judicial Magistrate. This Court finds that aforesaid objection is fallacious. On the basis of evidence led during course of trial, Reference Court noticed that manipulated reference letter and documents were used on record of Court for presentation, registration

and prosecution of land acquisition references. The offences of preparation of false or manipulated documents are committed before presentation of references to Court in connivance with many other persons, who are not parties to petition. In that backdrop, for offence covered under Section 215(1)(b) of BNSS, 2023, directions are given to Assistant Superintendent of Court to file separate complaints with Magistrate and for offences which are committed outside Court prior to presentation of references, directions are given to Collector to lodge FIR/police report. In this backdrop, pertinently, in light of law laid down by Hon'ble Supreme Court in case of Iqbal Singh Marwah (supra), Reference Court formed opinion regarding commission of offences referred under Section 195(1)(b) of Cr.P.C. (Section 215(1)(b) of BNSS, 2023) and followed further procedure and left Collector to lodge FIR in respect of offences which are not committed on record of Court. This Court finds no fault in course adopted by Reference Court while issuing two different directions.

23. In result, writ petition is partly allowed to the extent of petitioner nos. 1 and 3 only. Writ Petition of petitioner no.2 stands dismissed.

24. Rule is made partly absolute in above terms.

**(S.G. CHAPALGAONKAR, J.)**