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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**912 CIVIL APPLICATION NO. 2594 OF 2024
IN PIL/58/2023**

VIJAY BANSI PURBHE AND OTHERS

VERSUS

SURYAKANT EKNATH MAPARI AND OTHERS

WITH

PUBLIC INTEREST LITIGATION NO.58 OF 2023

**SURYAKANT EKNATH MAPARI AND OTHERS VS. UNION OF INDIA
AND OTHERS**

Mr.M.V.Ghatge, Advocate for the Applicant

Mr.P.K.Lakhotiya, AGP for Respondent Nos. 2 to 4, 7 and 8 in PIL.

Ms.Nikita Gore, Standing Counsel for Respondent No.1 in PIL.

Mr.S.S.Tope, Advocate for the Respondent/Petitioner in PIL.

Mr.V.C.Patil h/f Mr.U.B.Bondar, Advocate for Respondent Nos. 5 and 6.

**(CORAM : RAVINDRA V. GHUGE AND
R.M. JOSHI, JJ.)**

DATE : MARCH 5, 2024

PER COURT :

1. On 02.08.2023, we had passed an exhaustive order and while taking into account the State Rules and various statutory provisions applicable, we had observed in paragraph No.6 to 10 as under :-

“6. *His grievance is that the State Government has introduced the policy i.e. "The Maharashtra Clamp Type Traditional Brick Kilns (Sitting Criteria for Establishment) Rules, 2016, vide the notification*

dated 26.06.2016, which is different from the prescription found in the said notification issued by the Central Government.

7. *The learned AGP tenders a copy of the communication dated 24.04.2023 from the Deputy Regional Officer, Maharashtra Pollution Control Board, addressed to the Tahasildar, Ambad. The same is taken on record and marked as "X-2" for identification.*

8. *In view of the above, we direct these 13 intervention Applicants before us to file their individual affidavits/ undertakings in this Court in the light of the statements recorded herein above in paragraph No.4, within 15 days from today.*

9. *Insofar as the remaining Brick Kiln Operators are concerned, the Maharashtra Pollution Control Board as well as the Revenue Authorities at Ambad, shall initiate appropriate steps to ensure that the norms applicable shall be strictly complied with. They would also be re-located as like the 13 before us.*

10. *Since the Petitioners have contended that the Rules of 2016 introduced by the State Government (supra), are slightly different than the Environment (Protection) Amendment Rules, 2022, introduced vide the notification dated 22.02.2022 (supra), we call upon the Respondent/State to tender an affidavit in reply to explain as to why, the Rules, 2016, introduced by the State Government should not be similar to those which are introduced by the Central Government vide the Rules, 2022. Let an affidavit in reply be filed within three weeks from today."*

2. *Since it was brought to our notice that the Revenue*

Authorities had become complacent and were not initiating any action, a further order was passed on 21.02.2024, which reads as under :-

“1. Vide our order dated 02.08.2023 we have issued adequate directions to various authorities. No further clarification is required. What we notice today is that the Revenue Authorities are going slow on taking action purportedly in view of paragraphs 8 and 9 of the said order. The Revenue Authorities were under a clear mandate to take action against those who did not give their undertaking that they will shift their Brick Kilns from 01.06.2024 onward and complete the same by 30.06.2024. The Authorities were supposed to initiate action for removal of such Brick Kilns. No progress has been made, save and except that a notice was issued on 20.07.2023. The Revenue Authorities are apparently watching the situation as like by-standers.

2. The learned Advocate for the Petitioner has placed before us a compilation of colour photographs, which is collectively marked as ‘X-3’ (4 pages containing 8 photographs) for identification. The learned Advocate for the Pollution Control Board has tendered a compilation of documents, which is taken on record and collectively marked as ‘X-4’ for identification. His contention is that the Board has informed the Revenue Authorities that these are heavily polluting Brick Kilns and immediate steps have to be initiated for relocating them.

3. The learned AGP submits, on instructions from Mr. Soham Wayad, R.D.C. Jalna, Mr. Chandrakant Shelke, Tehsildar, Ambad, Mr. Saif Ahmad, District Mining Officer, Jalna & Mr. Balaji Papulwad, Head

Clerk, Collector Office, Jalna, who are present in the Court, that immediate action would be initiated against those Brick Kilns who have not executed undertakings in view of the order of this Court dated 02.08.2023.

4. *By recording the above statement, we list this PIL on 07th March, 2024 at 04.30 pm for further consideration.”*

3. The applicants in CA No.2594/2024 are before us seeking leave to intervene in the PIL on the ground that they are brick-kiln operators who are beyond 800 meters from the residential area or any establishment. Considering the State Rules, they are not required to shift for the present until this Court comes to a conclusion that they need to shift beyond 800 meters. The notices being issued by the Tahsildar to these Operators are unsustainable since they are beyond the directions of this Court set out in the order dated 02.08.2023.

4. The learned Advocate for the PIL Petitioner draws our attention to page No.57 of the Petition Paper book, which is a part of the notification dated 22.02.2022 issued by the Ministry of Environment, Forest and Climate change. This notification is appended to the Air (Prevention and Control of Pollution) Act, 1981.

5. The learned AGP submits on instructions that the Revenue Authorities would strictly abide by the directions of this Court as set out in the earlier orders. Those brick kiln operators, who are operating the kilns within 800 meters, will have to tender affidavits as per the order of this Court, undertaking to remove their brick kilns and move beyond 800 meters from the present location, that is beyond 800 meters of the area of residence of people / boundary of *Gavthan*.

6. We had earlier ordered that such operators would start removing their establishments from 01.06.2024 and would move beyond 800 meters until 30.06.2024. The same directions being applicable even to these intervention applicants provided they file their affidavits / undertakings, if they are within 800meters. If such affidavits are filed by those operators who are within 800 meters, within 15 days from today, the Revenue Authorities would ensure that they start shifting their establishments from 01.06.2024 and remove the establishment upto 30.06.2024.

7. In so far as the intervention applicants are concerned, as

they claim that they are beyond 800 meters, they are at liberty to file their individual representations in response to the notices issued by the Tahsildar, if not already tendered, within a period of 7 days from today. After receiving such representations, the Tahsildar shall carry out a verification exercise and for the present, in the light of the orders already passed. Such operators would not be required to move away from their present locations only if they are beyond 800 meters in the light of the earlier orders. We make it clear that since these are interim orders being passed, eventually, if this Court concludes as regards the exact distance to be maintained, all such operators would be liable and obliged to obey such directions.

8. List this PIL on 27.03.2024 at 4.30 p.m.

(R.M.JOSHI, J.)

(RAVINDRA V. GHUGE, J.)