

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

WRIT PETITION NO.8813 OF 2023

**SURYAKANT EKNATH MAPARI AND OTHERS
VERSUS
UNION OF INDIA THROUGH SECRETARY AND OTHERS**

**WITH
CIVIL APPLICATION (STAMP) NO.23895 OF 2023
(Not on the Board. Tendered across the Bar.)**

**IN
WRIT PETITION NO.8813 OF 2023**

**SAMBHAJI NAVNATH PAWAR AND OTHERS
VERSUS
SURYAKANT EKNATH MAPARI**

...
Advocate for the Petitioners : Shri Tope Sambhaji Subhashrao
Standing Counsel for Respondent 1/UoI : Ms.Nikita N. Gore
AGP for Respondents 2 to 4, 7 and 8/ State : Shri S.B. Yawalkar
Advocate for Respondents 5 and 6 : Shri U.B. Bondar
Advocate for the Applicants/ Intervenors : Shri M.V. Ghatge
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**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRADE, JJ.**

DATE :- 02nd August, 2023

Per Court :-

1. Having considered the submissions of the learned Advocates for the respective sides, we find that the cause raised by the Petitioners is in public interest. We are, therefore,

converting this petition into a PIL petition. The learned Advocate for the Petitioners would comply with the necessary requirements in the light of the Bombay High Court Public Interest Litigation Rules, 2010.

2. Pursuant to our order dated 25.07.2023, as we had directed the Maharashtra Pollution Control Board to urgently conduct an inspection, the report dated 28.07.2023 (six pages) is tendered before the Court. The same is collectively marked as "X-1" for identification.

3. The report clearly indicates several irregularities on the part of the Brick Kiln Operators. In the light of the said report, we could have directed the closing down of the Brick Kiln on account of serious violations. However, the learned Advocate Shri Ghatge tenders a Civil Application across the Bar in which, there are 13 Applicants, who are the Brick Kiln Operators.

4. Shri Ghatge submits that these Applicants are not presently operating Brick Kilns since in rainy season, it is not possible to resort to baking of bricks. So also, they have already paid lease amount to the land owners for using their lands upto May, 2024. After the rainy season is over, these operations would

commence around October, 2023. These are poor people, who live in open huts and sheds. They do not have enough financial strength to shift their operations to a different location, at this stage. Hence, they are assuring the Court that from June, 2024 onwards, they would relocate themselves strictly as per the prescription of the Maharashtra Pollution Control Board and the policies as are introduced by the Government from time to time. They will start shifting their Brick Kilns from 01.06.2024 and complete the same by 30.06.2024. They undertake that there will be no Brick Kiln operation during this period.

5. The learned Advocate representing the Petitioners points out the notification dated 22.02.2022 issued by the Ministry of Environment, Forest and Climate Change, introducing the Environment (Protection) Amendment Rules, 2022, more particularly clauses 6, 7, 8 and 10, which read as under:-

"6. *Brick kilns should be established at a minimum distance of 0.8 kilometre from habitation and fruit orchards. State Pollution Control Boards/Pollution Control Committees may make siting criteria stringent considering proximity to habitation, population density, water bodies, sensitive receptors, etc.*

7. *Brick kilns should be established at a*

minimum distance of one kilometre from an existing brick kiln to avoid clustering of kilns in an area.

8. *Brick kilns shall follow process emission/fugitive dust emission control guidelines as prescribed by concerned State Pollution Control Boards/Pollution Control Committees."*

"10. *All necessary approvals from the concerned authorities including mining department of the concerned State or Union Territory shall be obtained for extracting the soil to be used for brick making in the brick kiln."*

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.

11. Stand over to 31.08.2023 at 02:30 PM.

kps

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)