



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 WRIT PETITION NO.245 OF 2026

Navnath Shiram Chavhan

VERSUS

The State Of Maharashtra Through Its Principal Secretary And Others

...

Mr. Rupeshkumar C. Bora, Advocate for the Petitioner.

Mr. R. S. Wani, AGP for Respondents/State.

Mr. S. B. Pulkundwar, Advocate for respondent No.4.

**CORAM : SMT. VIBHA KANKANWADI &
AJIT B. KADETHANKAR, JJ.**

DATE : 05 MAY 2026

ORDER :

. Present petition has been filed for following reliefs :-

“B. By way of issue of writ of mandamus, order or directions in the like nature, to direct the erring respondents to take appropriate action for removal of the encroachments constructed upon the Jatdevla – Nagtala road, in the village Manikdaundi, Tq. Pathardi, Dist. Ahmednagar.

C. To grant any other suitable and equitable relief, for which the petitioner would be entitled in the peculiar circumstances of the case and in the interest of justice.”

2. Heard learned Advocate for the petitioner. Learned AGP waives notice for respondent Nos.1 to 3/State. No necessity to issue notice to the other respondents.



3. Learned Advocate for the petitioner contends that Jatdevla to Nagtala road is having 12 meters width and it passes from village Manikdaundi. According to the petitioner, many persons have made encroachment along the side of the road thereby they have grabbed the portion of the public road creating hurdle for the traffic. The petitioner is making representations time and again to the several authorities, however, they are not serious enough in taking action. Though certain communications have been taken place between the respondents, yet concrete action has not been taken. Therefore, the respondents are not adhering to various Government Resolutions as well to the directions given by the Hon'ble Supreme Court regarding the removal of encroachments from the public roads or land.

4. Here, first of all, the petitioner has produced the photographs, however, photographs cannot be taken as a piece of evidence to prove the encroachment. Secondly, he has given the copies of the representations, those were made by him to the various authorities including the present respondents. From these representations, it can be seen that the petitioner belongs to a political party. The petitioner also relies on the Monthly Meeting Resolution of the Gram Panchayat, Manikdaundi dated 06.01.2023, wherein it was resolved that there should be removal of encroachment. Here, there is absolutely no evidence on record to suggest



as to exactly, who is the owner of the land or portion on which the alleged encroachment has been made. Mere representations will not be the answer. If the width of the road is still the same, then the side strips would be belonging to somebody and to this effect, there is no evidence. Now, from the Gram Panchayat Manikdaundi resolution, it cannot be stated that the Gram Panchayat was of the opinion that the said portion was owned by the Gram Panchayat. If it was the opinion of the Gram Panchayat that the land belongs to the Gram Panchayat, then the Gram Panchayat is having ample powers to remove the encroachment. Now, after passing of this resolution, which action was taken by the Gram Panchayat has not been brought on record.

5. The petitioner then relies upon the internal communications between the respondents, however, it can be seen that independently these authorities have not come to the conclusion that the construction is by way of encroachment. The authority was relying upon the representations of the petitioner or the other persons and has stated that as per these persons, it is an encroachment. When it is a disputed question of fact as to on whose land the shops have been constructed, the issue cannot be adjudicated under Article 226 of the Constitution of India. The petitioner was at liberty to file a civil suit under Section 91 of the Code of Civil Procedure by following the requirements therein.



6. No doubt, there are government resolutions as well as the directions by the Hon'ble Supreme Court as well as this Court in respect of removal of encroachment from the government or public land, but that would be applicable when it is certain that such encroachments are on the government land. Here, along with the petition, no such documents have been produced and therefore, we are refraining ourselves from exercising powers under Article 226 of the Constitution of India.

7. Hence, the Writ Petition stands dismissed.

[AJIT B. KADETHANKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm