IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 1940 OF 2026
WITH
WRIT PETITION NO. 2312 OF 2015

Appasaheb Kisan Gaikwad (died) .. Applicants
Through LRs.,
Prayagbai Appasaheb Gaikwad & Ors.

VERSUS

The State of Maharashtra .. Respondents
Through its Principal Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai & Ors.

Mr. Ajit B. Kale, Advocate for the applicants.
Mr. A.R. Kale, AGP for respondent Nos. 1 to 4.
Mr. P.V. Barde, Advocate for respondent No.5.

CORAM : **KISHORE C. SANT &**
AJIT B. KADETHANKAR, JJ.
RESERVED ON : **30.07.2026**
PRONOUNCED ON : **06.10.2026**

ORDER [PER : KISHORE C. SANT.J.] : -

01. Writ Petition No. 2312 of 2015 was heard and, by way of common judgment dated 16.03.2023 was dismissed along with Writ Petition No. 5710 of 2014 and other Writ Petitions. The petitioner, thereafter, filed a Review Application No. 193 of 2024. This Court by

order dated 16.01.2025 allowed the review application and recalled the order by observing that the decision is reviewed vis-a-vis prayers in the Writ Petition regarding allotment of land in accordance with decision/recommendation of the Committee. It is specifically stated that the review is allowed only to the said extent. This Court would therefore consider only the question about entitlement of the petitioner so far allotment of land is concerned.

02. The petitioner had approached this Court with a prayer to direct the respondents to act upon decision dated 17.12.2013 taken by the respondents. Further direction was sought to allot the entire land of the petitioner i.e. 20 Acres and 3 Gunthas, pursuant to the application submitted by the petitioner dated 16.12.2013. The petitioner sought allotment of land from village Ainatpur, Tal. Shrirampur, Dist. Ahmednagar. Interim relief was prayed to stay allotment of land from said village to other persons and not to transfer or to alienate or to give possession of the land. Now a Civil Application is filed seeking prayer to quash and set aside the tender notice dated 05.02.2026 bearing No. T-130 (2025-26) to T-134 (2025-26). Tenders are invited for the purpose of development of lands for commercial, industrial and NA purposes.

03. The petitioners are the agriculturists/lessors holding lands in village Ainatpur, which were leased to a private sugar factory and now in possession of Maharashtra State Farming Corporation Limited (for short "MSFCL"]. Respondent No.1 is the State of Maharashtra. Respondent No.2 is the Collector, Respondent No.3 is Sub-Divisional Officer, Shrirampur and Respondent No.4 is the Tahsildar, Shrirampur.

04. Facts in short are that the petitioners were having lands in village Ainatpur. Initially the lands were leased to a private sugar factory. After establishment of the MSFCL, the lands were transferred to it. After transfer the MSFCL started cultivating the lands. On finding it difficult to cultivate the lands by the MSFCL, the Government decided to give back the lands to the agriculturists/lessors from whom the lands were leased out to MSFCL. It is stated in the petition that about 40,000 acres of land was leased out to MSFCL by around 7000 agriculturists/lessors. Thus, to maintain these lands, the MSFCL was established by the Government under the Act, namely, the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 [for short "the Ceiling Act"]. The Government added section 28-1AA(3) in the year 1970, whereby a decision was taken to give back the lands to the agriculturists/lessors. A specific policy was framed prescribing mode and

manner of giving lands back to the agriculturists. The Committee was formed headed by the Collector/Sub-Divisional Officer, Tahsildar, TILR, Taluka Agriculture Officer and representatives of said Committee was to monitor and take decision of giving back the land. The Committee started functioning after 04.05.2012.

05. The total land that was to be given back was about 34423 Acres. The petitioners were having land in Tilak Nagar Farm, where the Corporation was holding more than 9000 Acres of land. The MSFCL decided to return back around 4092.33 Acres land to the agriculturists/lessors and 427.24 Acres of land from village Ainatpur. The entitlement of the petitioners was found to be 20.3 Acres. A decision, therefore, was taken to give back the land adm. 20.3 Acres to the petitioners. The petitioners in view of the said development, made an application to the Committee. Choices were also given to them to show willingness to give land which were originally owned by the petitioners. The Committee took a decision to give land Gat No. 57/1, admeasuring 9 Acres 38 Gunthas and 5 Acres 30 Gunthas from Gat No.64 from Gat No. 62, from village Waladgaon. The land was to be given to the extent of 5 Acres 3 Gunthas. Such decision was taken on 17.12.2013. However, no actual actual possession is given. In the cases of the petitioners decision

is not immediately implemented and now the Government has issued a circular that if the land has NA potential, that land owner would be given another land and not his original land. The petitioners have approached this Court aggrieved by this decision.

06. Learned Advocate Mr. Kale vehemently argued that the petitioners are entitled to get land which is taken from their possession. However, now the respondents have changed stand saying that the land cannot be allotted from village Ainatpur as the land is having NA potential. He criticizes the said decision stating that there cannot be such policy decision not to allot land to the original owner, since it has NA potentiality. He has taken this Court through From No.1 showing entitlement of the person to get land, wherein the petitioners are shown entitled to get land from Survey No.57 to the extent of 20.3 Acres. He invites attention to Section 28A of the Ceiling Act, which provides for lands taken over from the industrial undertaking to ensure efficient cultivation and continued supply of raw material etc. He also invited attention to the Maharashtra Act No. XXVIII of 1970 introducing section 1AA to the Ceiling Act. He has shown Government decision dated 13.11.2013 giving guidelines and the particulars of the manner in which the lands are to be allotted. It shows lands at Waladgaon and Ainatpur.

He criticizes the letter issued by the Managing Director to the Collector, wherein it is stated that the land from Gat No. 57/1 admeasuring 9 Acres 38 Gunthas is again taken in possession by the MSFCL, as said land is having NA potential. He submits that this is done without any authority under law. Even one affidavit is filed on 29.06.2026 by the petitioners stating that this decision is taken only due to political pressure and to protect interest of certain persons. Later on now the Government has issued tender notice calling tenders for allotment of land from land Gat No. 57/1. He thus submits that the MSFCL has in-fact identified land to be allotted to the petitioners of 9.38 Acres. Even entry is taken to that effect in the record, however, only possession is not given. He submits that on 03.03.2014 again it was decided that only 50% of the land be given from Datta Nagar and adjoining villages. 50% land be given from the land which was originally taken from the petitioner and 50% land is to be given from some other village, which according to him is given already from village Tilak Nagar farm. By nature of law, he submits that the SDO in the capacity of head of the Committee informed the DSLR, Shrirampur and Estate Manager, MSFCL that in-fact decision was taken to give land to one Khandkari Gangadhar Narayan Wable or his legal heirs and to allot the land. He submits that even consent letter was taken from the petitioners showing that they are ready to take possession of 20

Acres and 3 Gunthas land from village Ainatpur, Gat No. 57/1, 52/2. Inspite of this, no possession is really handed over. He thus submits that it is necessary to hand over possession to the petitioners of the same land which was leased by the petitioners. By way of filing Civil Application, petitioners have also challenged a tender published for allotment of land of the petitioners.

07. It is case of respondent Nos. 1 to 4 that the Committee has rightly decided not to allot the land of village Ainatpur as said land is abutting road and having NA potentiality. This being a policy decision, the petitioners would not be entitled to ask for the very same land, which they propose. There is no right vested in the person to get the very same land. The Corporation is only under obligation to grant equal land to the person from whom lands were taken on lease.

08. Learned Advocate Mr. Barde appearing for the respondent – Corporation vehemently opposes the petition and application. He submits that the entitlement is to get some land in lieu of the land which was leased to the MSFCL. There is no right vested in the petitioners to get the very same land which was leased by the original owner. He relied upon earlier judgment of this Court dismissing the Writ Petition and

submits that this Court has already dealt with said submission. The question considered by the said Court was as to whether the original agriculturists are entitled to claim grant of any specific lands. This issue is very well answered by the Court in the said judgment. By answering that question the petition was dismissed.

09. A question required to be considered now is as to whether now it is permissible to the Authorities to refuse to allot a particular land only on the ground that it is having NA potentiality as per circular.

10. It is seen that the land Gat No. 57/1 was to be allotted to the original lessor. A letter was also issued for the said purpose. In Annexure "A" to the said letter, the land is shown to be allotted. However, on 16.12.2025 the Chairman of Committee and SDO, Shrirampur communicated to the petitioners that while taking measurement it was noticed that a land is having NA potential and therefore it is deleted from the lands to be allotted. Reference is given of a letter of a Collector. There is also a reference of an endorsement made by the Revenue Minister on Outward No./Minister/Revenue/General/14259/2025 dated 20.10.2025. It is seen that in 2013 it was decided to allot the land to the petitioners. Now after more than 12 years a decision is taken to delete

the land cancelling the allotment in favour of the petitioner. There is clear reason to conclude that the decision was taken at the Minister's level.

11. By operation of law, the land is vested in the MSFCL and there cannot be any dispute on the same. Since the land was in excess, a decision was taken to give back the lands to the original owners from whom such lands were taken on lease. While taking decision, it was decided that 50% land, as far as possible, would be given from the same land, which was leased. 50% of the land would be given from some other place, as far as possible, by giving choice to the original owner. While taking decision, it was also decided that the lands having NA potentiality are not to be given back. In the present case, though initially the allotment was shown to be made in favour of the petitioners, the process could not be completed. Before the process could be completed on measurement, it was realized that the land is having NA potentiality. Therefore, subsequently, communication was issued by the Authorities not to grant the land and instead the petitioners be given land from some other place.

12. The basic objection of the petitioners is to the decision of not

granting the same land to the petitioners, which was owned by the petitioners. After the MSFCL became full owner of the lands, it is quite legal for the said authority to decide as to which of the lands are to be given back. The petitioners or the owners could not get absolute right to get the land. Giving back the land was thus subject to policy decision taken by the Government and the MSFCL. The petitioners cannot have control over the policy decision. It is one case, had the procedure of giving back the land been completed, in the present case, however, it is before handing over actual possession, it was realized that the land is having NA potential and cannot be allotted. All other questions have already been answered and the rights are crystallized. While allowing the review, this Court reviewed the order only to consider the extent of question of allotment as seen from order dated 16.01.2025, taking such policy decision whether can be considered to be arbitrary and discriminatory.

13. The decision can only be tested on the ground of unreasonableness, discrimination or arbitrariness. This Court does not find that the decision of not allotting the lands having NA potentiality or which are converted into NA land to be arbitrary, discriminatory or unreasonable, as is clear from Government decision dated 04.05.2012,

as per clause 3.1. Thus, decision was taken even prior to identifying the land to be allotted to the petitioners. Nothing is shown that by way of decision, it is only land of petitioner is only excluded. Thus, on all these counts, this Court finds that the petitioners could not show that there was any vested right to get the very same land re-allotted to him. By way of subsequent events, now tender notice is issued by the MSFCL for giving the land Gat No.57/1 from village Ainatpur. This Court finds that since the petitioner failed to show his right to get the land allotted to him, there is no question of the petitioners having right to challenge as to how the said land is to be allotted to any other person. This Court, therefore, does not find substance in the subsequent prayers made in the Civil Application also. The civil application stands dismissed.

14. Considering all the above, it is clearly seen that the petitioners failed to make out any case calling for interference at the hands of this Court. The petition, therefore, stands dismissed.

[AJIT B. KADETHANKAR, J.] [KISHORE C. SANT, J.]

. At this stage, learned Advocate for the petitioner prays for continuation of the interim arrangement for a period of 6 (six) weeks.

Considering that the same is in force since 2022, the interim arrangement is continued for 6 (six) weeks from today.

[AJIT B. KADETHANKAR, J.] **[KISHORE C. SANT, J.]**

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