



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

WRIT PETITION NO.9092 OF 2019

District : Jalna

Balasaheb S/o Panditrao Sakalkar,
Age: 48 years, Occu: Agriculture,
R/o. Village Mapegaon (Bk),
Tq. Partur, District Jalna

..Petitioner

VERSUS

- 1] The State of Maharashtra,
Through its Secretary,
Water Resources Department,
Mantralaya, Mumbai-32.
- 2] The Divisional Commissioner/
Chief Controlling Authority,
Aurangabad Division,
Divisional Commissioner's Office,
Aurangabad.
- 3] The Chief Engineer and
Chief Administrator,
Command Area Development Authority,
Water Resources, CADA Office,
Aurangabad.
- 4] The Assistant Chief Engineer
(Water Resources),
Water Resources Department,
Aurangabad.
- 5] Special Land Acquisition Officer,
Krishna Valley Development
Corporation, Jalna.
- 6] The Executive Engineer,
Lower Dudhana Project,
Irrigation Department, Jalna.

7] The Collector, Jalna,
Tq. And Dist. Jalna.

8] The Tahsildar, Partur,
Tq. and Dist. Jalna

..Respondents

Mr.Mahesh V. Ghatge, Advocate for petitioner
Ms.J.P.Reddy, AGP for respondent nos.1, 2, 5, 7 and 8

**CORAM : KISHORE C. SANT &
AJIT B. KADETHANKAR, JJ.
RESERVED ON : AUGUST 03, 2026
PRONOUNCED ON : AUGUST 06, 2026**

JUDGMENT (Per Ajit B. Kadethankar, J.) :-

1. Inaction on the part of the Respondent nos. 2, 7 and 8 to allot a residential plot to the Petitioner under the rehabilitation scheme following the Maharashtra Project Affected Persons Rehabilitation Act 1999 ('the Act' for brevity), has brought the Petitioner before us vide present Writ Petition.

2. Rule. Rule made returnable forthwith. Pleadings are completed by the Parties. We heard the Writ Petition for final disposal by consent of the Parties.

3. Facts in brief:

3.1 Petitioner owned a residential plot bearing Village Property No.46/2 at Village Mapegaon (Budruk), Taluka Partur, District Jalna. The mutation record stands exclusively in his name.

There is no dispute over independent ownership of the Petitioner over the said plot.

3.2 On 31-12-2001, the respondent authorities initiated land acquisition process at village Mapegaon (Bk.) for the purpose of Lower Dudhana Project. Accordingly, notification u/s.4 of the Land Acquisition Act, 1864, was issued. In the due course of time, lands at Mapegaon village including Petitioner's plot were acquired. Compensation against land acquisition was also paid to the land losers.

3.3 For the purpose of rehabilitation of the project affected persons, the State Government acquired about 16 hectors land at Partur Shivar. The said land fell deficit to accommodate all the beneficiaries. A number of families from the Petitioner's village remained non benefited of the rehabilitation. The Petitioner too could not get any benefit of the Act.

3.4 Village Panchayat Mapegaon (Bk.) on 01-05-2017 unanimously resolved to file a representation to the Government authorities for rehabilitation of the project affected persons. Such representation was filed with various authorities. It was learnt that the representation of the Petitioner and others were even forwarded to the Respondent no. 3 authorities. However, no heed is paid to the same.

3.5 Hence this petition is filed by the Petitioner with a prayer for directions to the Respondent nos. 2, 7 and 8 to expedite rehabilitation for the project affected persons from Mapegaon (Bk.), Taluka Partur, District Jalna. A prayer is also made to allot a suitable plot to the Petitioner.

3.6 The Writ Petition is opposed by the respondent authorities. A reply affidavit is also filed under the seal and signature of Dr.Pratibha Gore-Karanjkar, the then Tahsildar, Partur, District Jalna.

3.7 At paragraph No.5 of the reply affidavit, the deponent candidly accepted that 161 land losers and 91 landless labours were allotted 16 hectors of land. It is further accepted that 22 plots for project affected persons and 07 plots for landless labours remained to be allotted.

3.8 So far as Petitioner is concerned, it is submitted that (i) Petitioner's plot was an open plot, and hence he is not entitled for plot allotment; (ii) property of Petitioner's father was also acquired for which compensation is already paid, hence no allotment could be made to the Petitioner; and (iii) since the Talathi reported that the Petitioner was unmarried and residing with his father in a joint family, he is not entitled for any allotment.

3.9 With above defense, the respondent authorities sought to justify declination to allot any plot to the Petitioner.

4. Submissions:-

4.1 Mr. Ghatge, learned advocate for the Petitioner would submit that the authorities are not at all justified for denying allotment of plot to him on any count.

4.2 He would submit that his independent ownership is not disputed by anybody. Compensation for land acquisition cannot be a ground for denial of plot for rehabilitation.

4.3 That, the report of Talathi is absolutely perverse to the record. The record clearly show that that Petitioner's residential house was situated over the plot. At the relevant time, the Petitioner was unmarried, but later he got married. Anyhow, this cannot be a ground to deny him the benefit of rehabilitation. Hence, the Writ Petition be allowed with directions to the authorities to allot the Petitioner a plot for rehabilitation.

4.4 Mrs. Reddy, learned Assistant Government Pleader vehemently opposes the Writ Petition. She would rely upon the reply affidavit filed by the concerned Tahsildar.

4.5 Mrs. Reddy would take us to the Part IV of Schedule appended to the Act r/w Section 13(3) (c) and 14 (3) and (4) and 16

(1) of the Act. She would submit that in view of the Part IV of the Schedule, the Petitioner is not entitled for any allotment.

4.6 It is further argued by the learned Assistant Government Pleader that, it was an undisputed fact that the Petitioner was unmarried person residing with his father. That, for this reason only he would not be entitled for any allotment.

4.7 Learned Assistant Government Pleader concludes her arguments with a submission that as per the Talathi report, Petitioner's property was an open plot. Hence he won't be entitled for allotment of plot for rehabilitation. With such arguments Mrs. Reddy prays to dismiss the Writ Petition.

5. Discussion and consideration:-

5.1 We have heard the parties at length. With their able assistance, we have perused the record. On the basis of the pleadings, record and verbal submissions, we now deal with the matter.

5.2 The petitioner's ownership on plot no.46/2, village Mapegaon (Bk.), Taluka Partur, District Jalna is not disputed, nor it is disputed that the said property is acquired for the Lower Dudhana Project. The Form-8 maintained by the Village Panchayat, Mapegaon

(Bk.) is before us. It shows Petitioner's name as owner and possessor of the said plot.

5.3 A notice dated 31-12-2001 issued by the Special Land Acquisition Officer, Krishna Valley u/s 4(1) of the Land Acquisition Act to the Petitioner is also on record. It is in respect of petitioner's aforesaid land.

5.4 Final Award 'E' statement also shows that compensation is paid to the Petitioner against acquisition of his aforesaid plot.

5.5 Thus, there is no dispute that the Petitioner is a project affected person within the meaning of the Act. The benefit is denied only on two counts. As far as objection that the Petitioner was unmarried at the relevant time and was allegedly residing with his father, we find this reason to deny the benefit of the Act to the Petitioner to be absolutely irrational.

5.6 Learned Assistant Government Pleader could not point out any provision in the Act or any Government policy which debars an unmarried person from getting benefit of plot allotment for rehabilitation purpose. What is required, that a person's independent property stands acquired for some project covered by the Act. Admittedly, the Lower Dudhana Project, is a project within the meaning of the Act.

5.7 The Petitioner is covered by the definition of 'affected person' within the meaning of Section 2 (2) (a) of the Act which reads thus:

Section 2 (Definitions)

(2) "*affected persons*" means—

(a) *an occupant whose land in the affected zone (including land in the gaothan) is acquired under section 14 for the purposes of a project ;*

5.8 Thus, it is clear that the Petitioner is covered by the definition of 'affected person' as enumerated in the Act. This is because, the definition expressly covers the land falling in Gaothan too. Petitioner's land undisputedly falls within Gaothan as could be seen from the documents, particularly the Form-8 annexed to the Petition. Learned Assistant Government Pleader could not demonstrate that there is any prohibition on open plot for rehabilitation allotment. Hence we are of the considered opinion that the first objection raised by the respondent does not stand on merit.

5.9 So far as another objection as regards payment of compensation is concerned, it is not in dispute that the Petitioner was paid compensation. However, this cannot be a ground for denying rehabilitation and allotment of plot to a land loser. Allotment of plot for rehabilitation cannot be in lieu of compensation, or *vice-a-versa*. Rehabilitation is a complete separate scheme under

the Act, which is governed by the parameters laid down in the Statute. One who is covered by those parameters, shall be entitled for the benefit of allotment. Hence, we find that the second objection is misconceived.

5.10 The last objection raised by learned Assistant Government Pleader is reference to the Part IV of Schedule appended to the Act. The said part only shows quantum/area that can be allotted to a beneficiary in proportion to the family size. Reference to the said provision is of no avail to the learned Assistant Government Pleader. Upon our cautious query to the learned Assistant Government Pleader as to how the said provision bars the Petitioner, we could not get any satisfactory, nor even remotely convincing explanation. Again, it was sought to impress that Petitioner was residing with this father, and that he won't be entitled for allotment of plot.

5.11 Thus, we find that there is no justifiable reason with the respondent authorities to deny allotment of a suitable plot to the Petitioner for rehabilitation as a project affected person. The Petitioner is entitled for such allotment as per the policy and the provisions.

5.12 Hence, we are of the opinion that the Writ Petition deserves to be allowed. Hence we pass following order:-

O R D E R

- I. Writ Petition stands allowed;
- II. The Respondent nos. 2, 7 and 8 shall expedite the process of rehabilitation of the Lower Dudhana project affected persons from Mapegaon (BK.), Taluka Partur, district Jalna, within a period of 12 months from today, if not already done;
- III. Within Six months from today, the Respondent nos. 2, 7 and 8 shall allot a suitable plot to the Petitioner for his rehabilitation out of the land acquired for rehabilitation of Lower Dudhana Project affected persons;
- IV. The aforesaid directions are subject to Petitioner's compliance if any, as per the scheme and provisions of law.
- V. Rule made absolute in above terms.

[AJIT B. KADETHANKAR, J.]

[KISHORE C. SANT, J.]

KBP

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