

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.5431 OF 2013

Rangnath s/o Kisan Khemnar,
age: 30 years, Occ: Agril.,
R/o Sakur, Tq. Sangamner,
District Ahmednagar.

Petitioner

Versus

01 The State of Maharashtra,
through its Secretary,
General Administration
Department, Mantralaya,
Mumbai-32.

02 The District Collector,
Ahmednagar.

03 Sub Divisional Officer,
Sangamner, District
Ahmednagar.

04 The Tahsildar, Sangamner,
District Ahmednagar.

05 Ashok s/o Bajirao Khemnar,
age: 43 years, Occ: Agril.,
R/o Sakur, Tq. Sangamner,
District Ahmednagar.

Respondents

Mr.V.J.Dixit, Senior Counsel i/by Shri A.N.Nagargoje, advocate for
the petitioner.

Mr.P.P.More, A.G.P. For Respondents No.1 to 4.

Mr. S.T.Shelke, advocate for Respondent No.5.

CORAM : R.M.BORDE &

P.R.BORA, JJ.

DATE : 03rd February, 2015

ORAL JUDGMENT (Per R.M.Borde, J.):

1 Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 The petitioner is assailing the legality and correctness of the order dated 20.05.2013, passed by Respondent No.4, directing revocation / cancellation of the Residential Certificate issued in favour of the petitioner.

3 The petitioner claims that he is a resident of village Sakur, Taluka Sangamner and as such, tendered an application to the Tahsildar, Sangamner, praying for issuance of certificate in that regard. Petitioner needed the certificate with a view to tender the same along with application for his appointment as Distributor for Gas Agency on behalf of Petroleum Corporation. The petitioner relied upon the certificates issued by Talathi and Gram Sevak, copy of 7/12 extract and copy of Ration Card wherein his residential address is recorded as village Sakur.

4 The petitioner contends that on scrutiny of the documents submitted by him, Respondent No.4-Tahsildar issued Residence Certificate as requested by the petitioner, on 30.05.2012. Respondent No.5 tendered a complaint to the Talathi pointing out that the petitioner is not resident of village Sakur but he is a resident of village Jambhulwadi, which is a separate village; and acting upon the complaint tendered by Respondent No.5, the Tahsildar directed cancellation of Residence certificate issued in favour of the petitioner by an order dated 18.06.2012. The petitioner challenged the decision rendered by the Tahsildar by presenting Writ Petition No.1107/2013, which came to be allowed

and the Tahsildar was directed to extend an opportunity of hearing to the petitioner and take decision in the matter afresh. After remand of the matter, petitioner appeared before Respondent No.4 and presented documents in support of his claim. Respondent No.4, however, did not accept the contentions of the petitioner and confirmed his earlier order of cancellation of Residence Certificate issued in favour of the petitioner. The Tahsildar has passed a reasoned order on 20.05.2013, which is subjected to challenge in this petition.

5 The petitioner contends that in fact he is resident of village Sakur and he has been issued certificate of Age and Domicile by the Tahsildar and Executive Magistrate. The petitioner also places reliance on the Residence Certificate issued by the Talathi on 27.12.2011, a certificate issued by the Sarpanch on 31.12.2011 as well as copies of revenue extracts, which demonstrate that the petitioner has landed property at village Sakur. The petitioner has been issued a Ration Card which also denotes that he is resident of village Sakur. Reliance is also placed on Voter's Identity Card which also indicates his place of residence as Sakur. The petitioner, thus, contends that the order issued by the Tahsildar is without application of mind to the record produced before him.

6 The Tahsildar, in his order, has recorded that in fact the petitioner is a resident of village Jambhulwadi and he himself tendered an application seeking cancellation of the certificate earlier issued in his favour. However, he has changed his stand and now contending that such an application was never tendered

by him to the Tahsildar.

7 Without considering the issue raised by the petitioner as regards genuineness of the application tendered by him to the Tahsildar seeking cancellation of Residence Certificate, the documentary evidence produced on record as well as reasoning adopted by the Tahsildar, persuades us not to cause interference in the matter. It is not a matter of dispute that before 27th October, 1988, village Sakur included hamlets Jambhulwadi, Hirewadi and Chinchewadi. However, on 27th October, 1988, village Sakur was divided and a separate village Jambhulwadi consisting of villages Jambhulwadi and Hirewadi came into existence. It is also recorded in the order passed by the Tahsildar that though village Jambhulwadi came into existence on 27.10.1988, the revenue record has not been separately written and corrected in accordance with decision of division of revenue villages. It is contended that on and after 27.10.1988, village Jambhulwadi is separated from village Sakur and as the petitioner, on the basis of evidence produced before the Tahsildar, appears to be resident of village Jambhulwadi, he cannot claim to be resident of village Sakur. The objector has produced before this Court certificates issued by Gram Sevak and Talathi certifying that petitioner is resident of village Jambhulwadi and that the certificates issued by them earlier were wrongly issued. The petitioner does possess residential properties at village Jambhulwadi and copies of extracts issued by Village Panchayat, in that regard, have been placed on record. Name of the petitioner also appears in the voters' list prepared in the year 2012 for the purposes of elections to Village Panchayat Jambhulwadi. It does appear that the petitioner is

taking undue advantage of the revenue record indicating existence of his landed properties included in village Sakur. However, the fact that the revenue record has not been corrected after division of village, as informed by the Tahsildar, cannot be overlooked.

8 In view of Section 4(2) of the Bombay Village Panchayats Act, on division of existing village, the separate local area of a village or the altered limits of village or the local area, shall cease to be part of the village and new village shall come into existence on the date of publication of notification in the Official Gazette. It is not a matter of dispute that such a notification has been issued on 27.10.1988 and thereupon village Jambhulwadi came into existence. There is ample evidence to indicate that the petitioner is resident of village Jambhulwadi and not a resident of village Sakur.

9 In view of above, the well reasoned order passed by the Tahsildar, Sangamner on 20.05.2013, does not call for any interference. Writ Petition is devoid of substance.

10 In the result, writ petition stands dismissed. Rule discharged. There shall be no order as to costs. In view of disposal of writ petition, pending Civil Applications do not survive and stand disposed of.

P.R.BORA
JUDGE

adb/wp543113

R.M.BORDE
JUDGE