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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10810 OF 2012

Ashok Parshutam Mhatre and Ors.

..Petitioners

V/s.

The State of Maharashtra and Ors.

..Respondents

Mr. Mr. Viral Rathod i/by Mr.H.E. Palwe for the petitioner.

Mr. A.I. Patel, A.G.P. for respondent nos. 1 and 2.

Mr. Omprakash Jha i/by M/s. The Law Point for respondent no. 3.

**CORAM : A.S.OKA AND
V.L.ACHLIYA, JJ.**

DATED : 29TH SEPTEMBER, 2015

P.C. :-

1. Heard the learned counsel for the petitioners and the learned A.G.P. for the State.

2. The petitioners are claiming to be the project affected persons. The contention of the petitioners is that the lands held by them were acquired by the first respondent State Government for the purpose of setting up the port of the Jawaharlal Nehru Port Trust at Nhava Sheva, Taluka Uran, District Raigad. The contention of the petitioners is that being the project affected persons, they are entitled to the benefit of employment.

3. The learned counsel for the petitioners invited our

attention to the order dated 16th November, 2011 passed by this Court in earlier writ petition being W.P. No. 3393 of 2008 filed by the petitioners. He pointed out that in the past, even third respondent has granted employment to the project affected persons whose lands were acquired for setting up the port. He urged that a direction was issued to the third respondent to act upon the recommendations of the Collector as the stand taken in the reply filed by the State Government is that the names of the petitioners have already been communicated to the third respondent for grant of employment.

4. We have heard the learned AGP for first and second respondents as well as the learned counsel for the third respondent. It will be necessary to peruse the order dated 16th November, 2011 passed by this Court in W.P. No. 3393 of 2008 filed by the present petitioners. The said Petition was disposed of by passing the following order :

“2. Having considered the submissions of Mr. Palwe, we are satisfied that the following order shall meet the ends of justice :

a. Petition is disposed of as withdrawn.

b. If the petitioners make an application to the respondent Collector as mentioned above, the Collector shall consider their application on merits in accordance with law and shall place them in the Wait List of project affected persons, if they are found to be qualified.

c. Petitioners to approach the Collector within a period of 4 weeks from today. If the petitioners make such an application within the stipulated time, the Collector shall consider the same and pass appropriate orders within a period of 6 weeks therefrom.

d. With these observations, Writ Petition is disposed of."

5. Though the third respondent herein was also the third respondent in the said writ petition, this Court did not pass any specific order directing the third respondent to consider the case of the petitioners for grant of employment.

6. Perhaps this petition is based on the letter dated 17th January, 2012 issued by the Deputy Collector (Resettlement), Raigad, Alibag. addressed to the petitioners. The said letter records that the names of the petitioners have been included in the waiting list of the project affected persons as per the order of this Court dated 16th November, 2011. The letter further records that the applications of the petitioners have been forwarded to the Chief Manager of the third respondent. There is a reply filed by third respondent to Shri. Murlidhar Ahire, Senior Manager of the third respondent. In the reply, it is contended that by order dated 16th November, 2011, this Court has chosen not to issue any direction against the third respondent. It is alleged that though in the past, some appointments may have been granted by the third

respondent as an act of social concern, the provisions of Maharashtra Project Affected Persons Rehabilitation Act, 1989 have not been made applicable by the State Government to the third respondent. Therefore, a contention is raised that though in the past, as social goodwill gesture, the third respondent might have accommodated some of the project affected persons, the third respondent is not under any obligation to do so.

7. There is an affidavit filed by Mr. Nitin Haridas Chavan, Tahsildar, Uran, District Raigad in which a reliance has been placed on Government Resolution dated 13th September, 2000 in which modalities for giving employment to the project affected persons have been laid down. In paragraph 4 of the said affidavit, it is stated as under :

“Government of Maharashtra Vide its Resolution No. Project-1000/CN27/2000/16A Dated 13th September, 2000 has given the modalities for giving recruitment to the Project Affected Person.

a. Government of Maharashtra has made 5% reservation for the recruitment in Government Services, Government sponsored corporation, Corporations which receives Financial Aid from the Government, Government run institutes, Zilla Parishad, Municipal Corporations, Municipal Councils and other agencies which are under the administrative control of the Government of Maharashtra.

b. Collector shall maintain a wait list of Project Affected Persons who have applied for the inclusion in the aid wait list. Inter se seniority is to be maintained as per the date of the application.

c. Recruiting Agency cannot make recruitment directly against the quota reserved for project Affected Persons. Recruiting agency has to call

the list of person included in the wait list.

d. Collector has to forward the list of person in the wait list as per their seniority to the recruiting agency.

e. The names of the candidates/persons who get recruitment are to be struck from the wait list.

Accordingly the name of the petitioner was intimated to the Jawaharlal Nehru Port Trust for further action."

8. In the same affidavit in paragraph 8, Mr. Nitin Chavan has stated thus :

"8.I say that whenever there are recruitment by Collector or by the respondent No. 3, quota of about 5% is available to the Project Affected Person. However, for recruiting any Project Affected Person from such quota, it is necessary that the said petitioner should make an application in the prescribed form to the authority and then on the basis of written test and other procedure the recruitment of 5% in total recruitment are made. If the said application is made as and when vacancies arose appropriate steps are taken for their appointment if they are otherwise found eligible and successful in the recruitment procedure."

9. Going by the G.R. dated 13th September, 2000, the third respondent is under no obligation to provide fixed quota in the employment for rehabilitation of the project affected persons. However, the State Government is bound by the aforesaid statements made in the affidavit of Mr. Nitin Chavan and therefore, we accept the said statements. There is an affidavit filed by Mr. Sambaji Zaware, District Rehabilitation Officer. The affidavit shows that the names of the petitioners have been incorporated in

the waiting list at Sr. Nos. 813 and 814.

10. Hence, as on today, no relief can be granted even against the first and second respondent. However, the first and second respondents are bound by the policy of the State Government which is reflected from the GR dated 13th September, 2000 and so long as the said GR is in force, the first and second respondents are under an obligation to implement the same. As held earlier, no relief can be granted against the third respondent.

11. Subject to above direction, the petition is disposed of.

(V.L.ACHLIYA, J.)

(A.S.OKA. J.)