

FARAD CONTINUATION SHEET NO.  
IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR.

**WRIT PETITION NO. 5229 OF 2014**

Rangnath Mhatarba Shivankar and others

-vs-

The State Revenue Department, State of Mah.and others

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders.

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Mr.A.A.Kathane, counsel for the petitioners.  
Ms T.H.Udeshi, AGP for the respondent Nos.1 to 5.

**CORAM : SMT.VASANTI A. NAIK &**  
**PRASANNA B. VARALE, JJ.**

**DATE : 01.07.2015.**

By this petition, the petitioners challenge the orders of the respondent No.5-Tahsildar, Deulgaon Raja, dated 09/11/2012, rejecting the applications made by the petitioners for allotment of the land in pursuance of the Government Resolution, dated 18/05/1971.

The petitioners claim to be the widows of Ex-Servicemen. According to the petitioners, the petitioners were entitled to allotment of land in pursuance of the Government Resolution, dated 18/05/1971. The petitioners had made representations to the respondents seeking the allotment of land. Since the applications were not decided, the petitioners filed separate writ petitions that were decided by separate orders, dated 25/08/2011 and 11/05/2012. This Court, while disposing of the writ petitions, accepted the statement made by the learned Assistant Government Pleader that the representations/ applications made by the petitioners would be considered in accordance with law. After the writ petitions

were decided by the impugned orders, dated 09/11/2012 and 21/11/2012 the applications/representations of the petitioners were rejected. The petitioners have impugned the orders, dated 09/11/2012 and 21/11/2012 in the instant petition.

Shri Kathane, the learned counsel for the petitioners, submitted that the orders are bad-in-law, as personal hearing was not granted to the petitioners before the impugned orders were passed. It is submitted that the petitioners had sought barren land and hence, the representations could not have been rejected on the reasons mentioned in the impugned orders. It is stated that the representations could not have been rejected on the basis of the Government Resolution, dated 12/07/2011, as the petitioners had applied for grant of E-Class land in the year 2008. It is stated that the judgment of the Hon'ble Supreme Court in the case of Jagpal Singh and others v. State of Punjab and others, reported in AIR 2011 SC 1123 would not be applicable to the facts of this case, as the case before the Hon'ble Supreme Court related to unauthorized occupation of the lands. It is stated that though the Government Resolution, dated 12/07/2011 is based on the judgment of the Hon'ble Supreme Court, reported in AIR 2011 SC 1123, the petitioners cannot be governed by the same.

Ms Udeshi, the learned Assistant Government Pleader appearing on behalf of the respondents, submitted that in view of the judgment of the Hon'ble Supreme Court in the case of Jagpal Singh and others, the State Government has issued the Government Resolution, dated 12/07/2011, prohibiting the allotment of E-Class land. It is stated that though the representations were made by the petitioners in

the year 2008, in view of the Government Resolution, dated 12/07/2011, which is based on the directions issued by the Hon'ble Supreme Court to all State Governments vide para-22 of the judgment in the case of Jagpal Singh and others, the petitioners would not be entitled to allotment of E-Class land. It is submitted that the petitioners have claimed E-Class land only and the said fact could be depicted from the proposal of the District Soldier Welfare Board, which recommends allotment of E-Class land to the petitioners.

On hearing the learned counsel for the parties and on a perusal of the judgment of the Hon'ble Supreme Court and the Government Resolution, dated 12/07/2011, we do not find any illegality in the impugned orders. The petitioners have claimed E-Class land and when the matter was heard on one of the previous dates of hearing, it was suggested that the petitioners could make an appropriate application-representation to the State Government seeking land, other than E-Class land. Though the learned counsel for the petitioners had sought time to make a statement in this regard, it appears that the petitioners are not desirous of making an application for seeking other land. On a perusal of the recommendation of the District Soldier Welfare Board, it is clear that the petitioners had sought the allotment of E-Class land. In view of the specific directions of the Hon'ble Supreme Court to the State Governments, in para-22 of the judgment, reported in AIR 2011 SC 1123, the State Government has issued the Government Resolution, dated 12/07/2011, prohibiting the allotment of E-Class land. The petitioners cannot be heard to say that since the Government Resolution, dated 12/07/2011 was issued in 2011 and the petitioners had made the applications in the year 2008, the

petitioners should be governed by the Government Resolution, dated 18/05/1971 only. In the circumstances of the case and the capacity in which the Tahsildar passed the impugned orders, it cannot be said that the petitioners ought to have been personally heard. The Government Resolution, dated 12/07/2011 is issued on the basis of the directions of the Hon'ble Supreme Court in para-22 of the judgment. The petitioners have not challenged the Government Resolution, dated 12/07/2011 in this petition. The impugned orders are in conformity with the Government Resolution, dated 12/07/2011. The reliance placed by the counsel for the petitioners on the unreported judgment of this Court, *dated 05/08/2014 in Writ Petition No.9653 of 2013 (Smt.Indira Babaji Jadhav v. The State of Maharashtra and others)*, is ill founded. The petitioners cannot rely on the said judgment for seeking the relief, as in the said case, there was no occasion for the Court to consider the Government Resolution, dated 12/07/2011, on the basis of which the orders impugned in this writ petition are passed.

Since there is no merit in the writ petition, the writ petition is dismissed with no order as to costs.

**JUDGE**

**JUDGE**