

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 4312 OF 2013

(Ashokrao s/o Gulabrao Thakre vs. State of Maharashtra thr. its Secretary, Forest & Revenue Department & Ors.)

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

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
A.P. BHANGALE, JJ.
FEBRUARY 13, 2015.**

Heard Shri Shinde, learned counsel for the petitioner and Mrs. Joshi learned AGP for respondent Nos. 1 to 3.

Shri Shinde, learned counsel points out that when final notification was published on 26.07.2013, in terms of Clauses (iii) and (vi) of sub-section (1) of Section 4 of Maharashtra Land Revenue Code, Revenue Sub-division for Digras and Pusad was shown at Digras in it. The petitioner is resident of Digras and has not raised objections to support the demand of Sub-Divisional Office at Digras. However, on 30.07.2013, a modification has been published and in stead of Digras, Revenue Sub-Division has been shown at Pusad. According to him, there never was any proposal to locate it at Pusad and hence the petitioner did not get any opportunity to oppose that placement. He further states that this change is arbitrary and unsustainable.

The learned AGP submits that after due application of mind and deliberations, the decision has been taken. She is relying upon reply affidavit filed on behalf of Respondent No. 1. She has invited attention to stand in reply affidavit of the Deputy Secretary. The said stand is as under :

“I say that pursuant to the said draft Notification, the Divisional Commissioner submitted the objections and suggestions along with their comments to the State Government. Those comments and the objections and suggestions were taken into account. As far as the present issue is concerned, all the objections were taken into account by the State Government and conscious decision was taken to break the pair of two talukas one sub division at Sr. No. 172 i.e. Digras and Mahagaon (as was shown in the Draft Notification). I say that since as per report of Divisional Commissioner, Amravati, the proposed Sub-Division created at Sr. No. 171 of Pusad and Umerkhed (as was shown in Draft Notification) was not administratively viable or convenient the Umerkhed Taluka was joined with Mahagaon Taluka at Sr. No. 171 (as was shown in final Notification dated 26.07.2013) with its headquarter at Umerkhed and further since the boundaries of Pusad and Digras are adjacent to each other. The Digras taluka was joined with Pusad by Notification dated 30.07.2013 with its head quarter at Pusad. I further submit that Pusad is old Sub-division

office and has all the ready made infrastructure for running sub divisional office. I say that while issuing final Notification dated 26.7.2013, due to clerical mistake the headquarter of Pusad and Digras Taluka was shown as Digras. However, the said clerical mistake has been corrected by issuing Notification dated 30.07.2013 and Pusad is shown as headquarter of these two Talukas.”

The stand itself shows the material variance between the draft notification and final notification. Pusad was never suggested as Sub-divisional headquarter for Pusad and Digras. The petitioner or other persons, therefore, did not get any opportunity to raise objection to that proposal. If State Government wanted any modification in the proposal, it is apparent that a fresh draft inviting objections ought to have been published. This view is already taken by this Court while deciding Public Interest Litigation No. 72 of 2013 on 10.12.2014.

The portion reproduced above itself shows that final notification dated 26.07.2013 which disclosed Digras as Sub-divisional headquarter suffered from some clerical error. Hence, notification dated 26.07.2013 or corrigenda dated 30.07.2013 are unsustainable.

However, we find that this Court has not granted any interim orders in present writ petition, hence, Sub-division may have started functioning at

Pusad. It will not be proper to disturb the functioning of that Sub-division, therefore, though we quash and set aside both the notifications, we are not disturbing the functioning of Revenue Sub-Division at all.

We direct the respondents to publish fresh draft notification inviting objections or suggestions in relation to placement of Revenue Sub-division at Pusad and take fresh decision in accordance with law. These formalities be completed at the earliest.

Writ Petition is, therefore, partly allowed and disposed of. However, there shall be no order as to costs.

JUDGE

JUDGE

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