

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

WRIT PETITION NO. 2541 OF 2014

Jagdish Keshavnath Bondarde,
Age: years, Occu. Business,
R/o: Shiradhon, Tq. Kallam,
District: Osmanabad.

...PETITIONER

versus

1. The State of Maharashtra
 Through the Secretary,
 Department of Revenue and Forest
 Mantralaya, Fort, Mumbai.
2. The Divisional Commissioner,
 Aurangabad Division, Aurangabad.
3. The District Collector, Osmanabad,
 District Osmanabad.
4. The Sub – Divisional Officer,
 Kallam, Tq. Kallamb,
 District : Osmanabad.
5. The Tahasildar, Kallamb,
 District Osmanabad.
6. The Talathi, Shiradhon,
 Tq. Kallam, Dist. Osmanabad.

...RESPONDENTS

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Mr. P.R. Katneshwarkar, Advocate holding for
Mr. R.D. Raut, Advocate for petitioner
Mr. S.P. Sonpawale, AGP for respondents – State Authorities
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**CORAM : S. V. GANGAPURWALA AND
K.K. SONAWANE, JJ.**

DATED : 25th APRIL, 2016.

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard the learned counsel
for the parties finally, with consent.

2. Mr. Katneshwarkar, learned counsel for petitioner submits that the petitioner is 60% physically handicapped and necessary certificate to that effect issued by the Civil Surgeon, Osmanabad is also placed on record. According to learned counsel, the petitioner is economically poor person and he does not have any immovable and movable properties or any estate.

3. Pursuant to section 43 of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 (for short "Act of 1995"), the State of Maharashtra has promulgated scheme on 26th April, 2001 for physically disabled persons in tune with scheme applicable to Ex-service man, Government Servants etc. wherein without auction, provision was made for allotment of land to the extent of 200 Sq. feet to the disabled persons to run Juice Centre, Telephone Booth and Xerox Centre.

4. According to learned counsel, since 1988 the petitioner was applying consistently for allotment of plot for running Xerox Centre. Pursuant to application, the Collector and Tahsildar had taken steps and the respondents - authorities intended to allot the land *admeasuring* 20 x 20 sq. feet in survey No. 214 of village Shiradhon Ta. Kallam. Even *Panchanma* to that effect was drawn by Talathi on 30-03-2003. Pursuant thereto, the petitioner has deposited the amount of Rs.7400/- towards cost of the plot under challan dated 15-03-2004, however, subsequently no steps were taken by the respondents - authorities for allotment of said plot though petitioner is consistently representing to the respondents - authorities.

5. Learned Assistant Government Pleader submits that subsequently in view of judgment of the Apex Court in the case of *Jagpal Singh and others Vs. State of Punjab and others* reported in (2011) 11 *Supreme Court Cases*, 396 the policy has been changed and it is decided not to allot the land of Gairan for any private purpose. In view of Government Resolution dated 12-07-2011, it was decided that the plot in Gairan land cannot be allotted to the petitioner.

6. We have considered the submissions canvassed by the learned counsel for the parties. It is not in dispute that since 1988 the petitioner was consistently making the representations with respondents - authorities for allotting the plot to him to run Xerox Centre etc. It is also not in dispute that the petitioner is physical disabled person. It is also not in dispute that *Panchnama* was conducted by the Talathi in respect of plot *admeasuring* 20 x 20 sq. feet in respect of land survey No. 214 of Shiradhon, Ta. Kallam. There is some dispute about depositing of amount of Rs. 7400/- by the petitioner towards cost of the plot. It is for the authority concerned to confirm the same. The fact remains that *panchnama* was effected pursuant to the application of the petitioner for allotment of plot for running some business i.e. Xerox Centre/Juice Centre etc. on 30-03-2003. Even Further process was also conducted, except allotment of plot. As such, the petitioner and respondents were governed by Government Resolution dated 26-04-2001. It is not shown by the respondents-authorities that some Government land is available. Respondents - authorities did not take any decision on the

application of the petitioner for allotment of plot. Almost fifteen years have lapsed.

7. Considering the above, we pass the following order.

Respondents - authorities shall allot the land of which *panchnama* was effected on 30-03-2003 (Exhibit-F), if same is available, to the petitioner, on petitioner making necessary compliance with regard to payment of cost etc. as expeditiously as possible, preferably within a period of six months from the date of order.

8. Writ petition is allowed in aforesaid terms. Rule is made absolute accordingly. No cost.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

MTK