

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

WRIT PETITION NO.6923 OF 2015

Narendra s/o Ganpat Khandagale ... PETITIONER

VERSUS

The State of Maharashtra & ors. ... RESPONDENTS

.....
Shri R.A. Tambe, Advocate for petitioner
Shri A.M. Phule, A.G.P. for State
Shri S.D. Kulkarni, Advocate for respondent No.8
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CORAM: S.V. GANGAPURWALA, J.

DATED: 23rd March, 2016.

ORAL ORDER :

1. Mr. Tambe, the learned counsel for the petitioner submits that, the surplus land to the extent of 12 acres and 18 gunthas was allotted to the petitioner from Gat No.152. The petitioner has filed an application for allotment of additional 3 acres and 2 gunthas from the adjacent Gat No.154. The petitioner is entitled to the adjacent land as per the guidelines and the rules and the Circular issued by the Government, more particularly clauses 4.3 and 4.6 of the said Circular. The learned counsel submits that, as per the Government Resolution dated

22.8.2014, the petitioner became entitled for the additional 3 acres 2 gunthas of the land, as such, filed an application on 5.12.2014. The learned counsel submits that, first application was on 15.5.2013. In that application also the petitioner has specifically stated that he may be allotted land from Gat No.152 and the adjacent land so as to maintain the integrity of the land. The learned counsel submits that, deliberately land from Gat No.154 is allotted to the present respondent No.8. In fact, he was member of the Committee. The land was allotted to him. However, on the day he made an application for allotment of land from Gat No.154, on the very same day the land is allotted to him. The learned counsel submits that, the order allotting land to respondent No.8 is an unreasoned order and the same is illegal. Once another land is allotted, there is no provision to change the allotment of the land. The same is illegal.

2. Mr. Phule, the learned A.G.P. submits that the proposal in respect of allotment of the land to the petitioner is pending with the Government. The same is not yet finalised.

3. It is not disputed that the father of the petitioner had filed an application for re-allotment of land leased out in favour of the M.S.F.C. in view of Section 28(1)-A of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, wherein the land

was demanded from Gat Nos.152 and 154. The father of the petitioner was allotted land to the extent of 12 acres 3 gunthas from Gat No.152. The allotment of the said land is not disputed.

4. The respondent No.8 had initially filed an application for allotment of land from Gat No.170 and he was allotted land from different Gat Numbers, and 16 gunthas was allotted from Gat No.154. On 11.2.2014, the respondent No.8 again filed an application and the allotment was changed, the respondent No.8 was allotted 3 acres and 2 gunthas from land Gat No.154. The allotment in favour of the petitioner/ his father was complete much earlier. Subsequently, a Government Resolution dated 22.8.2014 was promulgated, by virtue of which the petitioner became entitled for additional land. Pursuant to the said Government Resolution, the petitioner filed application on 5.12.2014 for allotment of additional land. By the time, petitioner filed an application on 5.12.2014 for allotment of additional land from Gat No.154, the land from said Gat Number was already allotted to respondent No.8 on 11.2.2014 i.e. almost 10 months prior to the application of the petitioner. The right accrued to the petitioner to claim the additional land for the first time on 22.8.2011 in view of the Government Resolution of the even date. Prior to the said date, the land from Gat No.154 was

already allotted to the respondent No.8. As such, now it would be too late in the day to cancel the allotment of land in favour of respondent No.8 and given the said land to the petitioner. The proposal of the petitioner for allotment of additional land is still pending. The case of the petitioner could have been considered had the land from Gat No.154 not been allotted till the application made by the petitioner on 5.12.2014.

5. The objection of the present petitioner that the allotment of land to the respondent No.8 is by non-speaking order. The question of passing speaking order does not arise. It is an administrative action allotting the land. Relevant Resolutions are to be considered while allotting the land. The same has been considered. As the allotment of land to respondent No.8 was much prior to the accrual of right to the petitioner, the same now cannot be considered.

6. In view of the above, Writ Petition disposed of. No costs.

7. At this stage, learned counsel for the petitioner seeks continuation of the interim order. Mr. Kulkarni, learned counsel for the respondent opposes the same.

8. Considering the fact that the impugned order was in

operation, the same shall continue for a period of four weeks. Needless to say that, on lapse of four weeks, the said interim protection shall come to an end.

(S.V. GANGAPURWALA, J.)

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