

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION NO.178 OF 2016
(Prakash Genubhau Kohinkar and others Vs. The State of
Maharashtra and others)
IN
WRIT PETITION NO.2998 OF 2015

Mr.A.K.Gawali, Advocate for the applicant.
Mr.P.N.Kutti, AGP for respondent Nos. 1 to 4.
Mr.D.R.Markad, Advocate for respondent Nos.5 to 10.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 21/10/2016

PER COURT :

1. By order dated 22/04/2016, WP No.2998/2015 was disposed of after recording the statement of the petitioner that he had approached the Divisional Commissioner and had succeeded in getting RTS Revision No.36/2013 restored. Based on the said statement, the petition was disposed of and the Divisional Commissioner was directed to decide the revision petition.

2. Issue raised by the applicants in this review application is that the RTS Revision No.36/2013 was not restored by the Divisional Commissioner and the application seeking restoration was pending. As such, the writ petition could not have been disposed of with the directions set out in paragraph Nos. 8 and 9 of the order under

review.

3. Though the learned AGP and the original petitioner contend that the RTS Revision was restored, they are unable to point out from the record and proceedings before this Court that any order directing restoration of the RTS revision was ever passed by the competent authority. It is conceded by the respondents that there is no written order on record and the R & P also does not evidence any written order allowing the restoration application and restoring the RTS revision.

4. I find it quite strange that non applicant No.2 has filed an affidavit through the Nayab Tahsildar namely Suresh Prabhakar Waghchoure in which it is stated that the hearing on the RTS revision was being conducted and looking at the proceedings and the order of this Court, the RTS Revision itself was being heard. I do not find that the contentions set out in the affidavit deserves to be considered. Unless a formal order of restoration of the RTS revision is passed, the competent authority could not have presumed that the RTS revision is restored.

5. Considering the above, this review petition is allowed. The

order dated 22/04/2016 passed by this Court is maintained only to the extent of the allowing of the Civil Application No.5017/2016 by which the order of this Court dated 26/11/2015 was recalled and the writ petition, which was dismissed for non removal of office objections is restored.

6. The order disposing of the writ petition with the observations set out in paragraph Nos. 6, 7, 8, and 9 of the order dated 22/04/2016 is recalled. Needless to state, WP No.2998/2015 stands restored at the stage at which it was disposed of. The said writ petition shall now be placed before the Court to which the same has been assigned as per the present assignment.

7. Record and proceedings be returned to the Office of the Divisional Commissioner, Nasik with the observation that the RTS Revision No.36/2013 has not been restored.

(RAVINDRA V. GHUGE, J.)