IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10912 OF 2015

1. Pralhad S/o. Kishanrao Ghogre,
Age : 62 Years, Occu. : Agrist.,
R/o. : At Post Bamni, Tq. : Udgir,
Dist. : Latur

2. Madhav S/o Pralhad Ghogre,
Age : 21 Years, Occu. : Agrist.,
R/o. : At post Bamni, Tq. :Udgir,
Dist. : Latur

3. Sandip S/o Pralhad Ghogre,
Age : 26 Years, Occu. : Agrist.,
R/o. At post Bamni, Tq. : Udgir,
Dist. : Latur .. Petitioners

Versus

1. The State of Maharashtra,
Through its Secretary of Revenue
and Forest Department,
Mantralaya – Mumbai

2. The District Rehabilitation Officer,
Latur Collector Office,
Latur .. Respondents

Shri Sandeep B. Sontakke and R. H. Mewara, Advocate for Petitioners.
Shri V. H. Dighe, A. G. P. for Respondents.

CORAM : S. V. GANGAPURWALA AND A. M. BADAR, JJ.
DATE : 04TH FEBRUARY, 2016.

ORAL JUDGMENT *(Per S. V. Gangapurwala, J.)* **:-**

1. Rule.

2. Rule returnable forthwith. With the consent of parties taken up for final hearing.

3. The land of the petitioner No. 1 is acquired by the State for Bopani Village Dam. Petitioner Nos. 2 and 3 are the sons of petitioner No. 1. The petitioner No. 1 as such, is a project affected person. The petitioner No. 1 applied to the District Rehabilitation Officer for issuance of the Project Affected Person Certificate in the name of petitioner No. 2. The certificate as such, was issued in the name of petitioner No. 2 of being a project affected person. The same was in the year, 2011. Thereafter, on or about 7th May, 2013, the petitioner No. 1 applied for transfer of the said Project Affected Person Certificate standing in the name of petitioner No. 2, the said request was granted and the said certificate which was initially issued in name of petitioner No. 2 was subsequently issued in the name of petitioner No. 3. Thereafter, petitioner No. 3 as was unable to get the employment because of lack of educational qualification as such, petitioner No. 1 again applied for transfer of the said certificate in the name of petitioner No. 2. The said application is rejected on the ground that as per the Government Circular dated 26th March, 2007, there is a specific bar for second transfer of the certificate of project affected person. Aggrieved thereby the present petition.

4. We have heard the learned counsel for the petitioner and the learned A. G. P.

5. Section 5 (c) empowers the Collector to issue certificate to a person who is nominated by the project affected person for being employed against the quota reserved for the nominees of the affected persons. Section 6 (c) also cast duty on the Project

Authority to give highest priority in Class III and Class IV category of service on the project establishment, to one member of the affected family nominated by the affected person, if, such member is eligible for such such employment according to the recruitment rules. Section 10 (6) (a) provides for reservation of not less than 5% priority quota for the employment of the nominees of the project affected persons.

6. The purpose and the object of these provisions is to provide employment to the project affected person or his nominee. The same is one of the way of rehabilitating the project affected person. Avowed object is sought to be achieved by giving employment to the nominee of the project affected person.

7. In the present matter it is not in dispute that, petitioner No. 1 is the project affected person. Initially he had nominated petitioner No. 2 for the issuance of Project Affected Person Certificate. Thereafter, petitioner No. 1 applied for transfer of the said certificate in name of petitioner No. 3. The same was permitted. However, petitioner No. 3 could not get any employment because of lack of educational qualification, as such, now petitioner No. 1 again wants the said certificate to be given in the name of original nominee i.e. petitioner No. 2. The statute nowhere creates a bar in this regard. The Circular only lays down that second transfer would not be permissible. The said Circular cannot override the avowed object of the statute. The apprehension of the respondent as is spelled out by the learned A. G. P. that there would not be any record if the certificates are transferred, does not stand to any reason. The Rules, more particularly, Rule 16 sub-Rule 4 of the Right to Fare Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement (Maharashtra) Rules, 2014, lays down that, when the appointment of project affected person in priority quota is made his original Project Affected Person Certificate shall be send for confirmation to the issuing Authority. The appointment of such person shall be confirmed only after receiving the confirmation letter from the issuing Authority. The certificate is required to be verified and the original certificate is to be retained by them by affixing cancelled. The rules in that regard which are framed under the Right to Fare Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Maharashtra) Rules, 2014, takes the necessary safeguard in that regard.

8. In light of the above, we pass the following order -

I] The impugned order is quashed and set aside.

II] The respondents shall issue the necessary certificate as per the application of the petitioner No. 1 in the name of petitioner No. 2.

III] The petitioner No. 1 shall produce the original certificate and surrender it with the Authorities standing in the name of petitioner No. 3 and then only shall issue the Project Affected Person Certificate in the name of petitioner No. 2.

9. Rule is accordingly made absolute in above terms. No costs.

[A. M. BADAR, J.] **[S. V. GANGAPURWALA, J.]**

sam/Feb.16