

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

WRIT PETITION NO.12254 OF 2015

- 1) Bhanudas s/o Vaijanath Shinde
Age: 65 Years, Occu : Agri.,
R/o: Dhanora (Bk),
Tq. Ahmedpur, Dist. Latur.
- 2) Babruwan s/o Bhanudas Shinde,
Age : 33 Years, Occu : Education & Agri,
R/o : Dhanora (Bk), Tq. Ahmedpur,
Dist. Latur.

.. PETITIONERS

VERSUS

- 1) The State of Maharashtra
Through its Secretary
Forest and Revenue Department,
Mantralaya, Mumbai.
- 2) The District Collector,
Latur, Dist. Latur.
- 3) The Deputy Collector
(Project Affected)
Latur, Tq. & Dist. Latur.
- 4) The Tahsildar,
Ahmedpur, Tq. Ahmedpur,
District Latur.
- 5) The Collector,
Through its President,
District Selection Committee
Sangli, Dist. Sangli.

.. RESPONDENTS

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Mr.Vinayak H. Solanke, Advocate for the Petitioners;
Mr.S.K.Kadam, AGP for Respondent Nos.1 to 5.

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**CORAM : R.M.BORDE &
P.R.BORA,JJ.**

DATE : 15th March,2016.

ORAL JUDGMENT (PER:-R.M.BORDE,J.)

1) Heard. Rule. Rule made returnable forthwith. With the consent of learned Counsel for the parties, the petition is taken up for final disposal at admission stage.

2) The petitioner is praying for issuance of directions to the respondents to transfer the Project Affected Person's Certificate, which was initially in the name of one Balasaheb Bhanudas Shinde in favour of petitioner No. 2 - Babruwan Bhanudas Shinde. It is not a matter of dispute that certain land belonging to petitioner No.1, who is father of petitioner No.2, was acquired for public project. On consideration of the request made by petitioner No.1, a Certificate came to be issued in name of his son – Balasaheb Bhanudas Shinde. However, since Balasaheb could not secure employment on the basis of the certificate and realizing that petitioner No.2, who is another son i.e. petitioner No.1, is eligible for appointment under the State Government, a request was

made for transfer of the certificate issued in the name of Balasaheb in favour of petitioner No.2.

3) It has been contended that petitioner No.2 tendered an application seeking employment as a Talathi from amongst the category of Project Affected Persons and he has been selected in observance of the due selection process. However, the request made by the petitioner has been turned down by the respondents on the ground that there is no prescription under the policy to transfer project affected person's certificate once it is issued.

4) It is the case of the respondents that the certificate can be transferred only once and second transfer of the certificate is not permissible under the policy.

5) The issue raised in this matter is no more *res integra* and is covered by the decision rendered by the Division Bench of this Court in the matter of Pralhad Kishanrao Ghogre and Ors. Vs. State of Maharashtra and Anr. (Writ Petition No.10912/2015 decided on 4th February, 2016). The Division Bench

of this Court, while considering the issue raised therein, has, in para 7 of the said judgment, observed thus, -

"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 Fair 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 Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Maharashtra) Rules, 2014, takes the necessary safeguard in that regard.

6) In view of the decision referred to above, the claim of the present petitioners also deserves to be considered. In this view of the matter, the impugned order, refusing request of the petitioner No.1 for transfer of the Project Affected Person's Certificate in the name of petitioner No.2, is quashed and set aside. The respondents are directed to issue a Certificate, on consideration of the application tendered by the petitioner Nos. 1 and 2, permitting transfer of the certificate in the name of petitioner No.2 so as to facilitate him to secure the employment, for which he has been selected. Respondent No.5 is directed to consider the claim of petitioner No.2 for appointment to the post of Talathi in furtherance of his selection and if found eligible, issue an order of appointment to him expeditiously and on fulfilling necessary requirements.

7) Rule is accordingly made absolute in the aforesaid terms. There shall be no order as to costs.

sd/-
(P.R.BORA)
JUDGE

sd/-
(R.M.BORDE)
JUDGE

bdv/