

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

**WRIT PETITION NO.8149 of 2016**

Baburao S/o Yadavrao Pawar

Age: 65 years, occu: Agriculturist,

R/o Pathrad, Tq. Hadgaon,

Dist. Nanded

Petitioner

Versus

1 The Chief Executive Officer,  
Zilla Parishad, Nanded  
Tq. & Dist. Nanded

2 The Sarpanch / Gramsevak,  
Grampanchayat Tamsa, Tamsa,  
Tq. Hadgaon, Dist. Nanded

3 Vishnu s/o Uttam Kondamangal,  
Age: 25 years, occu: Agriculturist,  
R/o Tamsa, Tq. Hadgaon,  
Dist. Nanded

Respondents

Mr V. B. Dhage advocate for the petitioner

Mr. Y.K. Bobade h/f Mr. A.B. Shinde for Respondent No.1

Mr. M.S.Taur advocate for respondent No.2

Mr. K.M. Nagarkar advocate for respondent No.3

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CORAM : **RAVINDRA V. GHUGE, J**

(Date : 5<sup>th</sup> July, 2017.)

**ORAL JUDGMENT**

1 Rule. Rule made returnable forthwith and heard finally with

the consent of the parties.

2 The petitioner is aggrieved by the directions issued by respondent No.1 dated 11.7.2016 under section 56 of the Maharashtra Village Panchayat Act.

3 I have considered the submissions of the learned advocates for the respective sides. By order dated 2.8.2016, this Court had granted ad interim stay to the impugned order.

4 A scheme by title '*Rural Housing Scheme*' was introduced in 1959 to be implemented by the respective Gram Panchayats. By the said scheme, the Grampanchayat was empowered to allot plots to the villagers, who were residents of the said Grampanchayats, on the condition that they would pay the premium. The father of the petitioner Yadavrao Pawar who is deceased had also paid the premium. Yet the plot was not allotted.

5 The petitioner moved an application in 1990, seeking allotment of the said plot. Same was accepted by a resolution of the Gramapanchayat dated 25.11.1990 bearing No.237. He was then allotted a plot.

6 Respondent No.3, who is the resident of the same village, moved an application on 5.5.2016 to respondent No.1, alleging

illegalities against the petitioner while allotting the plots 16 years ago. By the impugned order, respondent No.1 has directed respondent No.2 Grampanchayat, Tamsa to re-enquire into the case of the petitioner as well as inquire into the allotment of plots to other plot holders, similarly placed.

7 There is no dispute that after 1959, the petitioner sought allotment of the plot in 1990. There is also no dispute that respondent No.3 raised the objection after 16 years of the allotment.

8 Learned counsel for the petitioner submits that as per the proviso to section 56(i), the view expressed by the respondent No.1 in the impugned order is unsustainable as it does not require a sale-deed or a lease agreement, as the case of the petitioner is covered by the Rural Housing Scheme. He, therefore, submits that the limit of three years for granting a lease deed would not apply to this case.

9 I find that there are several issues, which have not been delved upon by respondent No.1, while passing the impugned order. Nevertheless, the inquiry has to be conducted by respondent No.2, by modifying the impugned order, some further directions can be issued.

10 Considering the above, this petition is partly allowed and the impugned order dated 11.7.2016 is modified as under:-

A) Respondent No.2 would consider, whether the father of the petitioner was eligible under the Rural Housing Scheme ?

B) Whether the Rural Housing Scheme is still in existence ?

C) Whether the denial of a plot to the father of the petitioner was justifiable and whether the petitioner could be held entitled for allotment of a plot, after 31 years of the said scheme, on his application made in 1990 ?

D) If the petitioner's case needs to be inquired into, all similarly situated villagers will also have to be subjected to such inquiry and respondent No.2 shall, therefore, initiate the said process and give a reasonable opportunity to all such villagers, who are likely to be affected.

E) Respondent No.2 would also scrutinize whether section 56(i) and the proviso there-below, would apply to the case of the petitioner and if yes, would it apply to the cases of all similarly situated villagers.

11 Respondent No.2 shall conduct such inquiry within a period

of 8 months from today.

12 Needless to state, the resolution dated 20.2.2013 forwarded to respondent No.1 by respondent No.2 shall be decided on its own merits by considering its effect on such inquiry.

13 The interim relief granted by this Court on 2.8.2016 would continue to protect him till the decision of the inquiry and would further protect him and all aggrieved villagers, if the inquiry report is adverse to their interest, for a further period of four weeks.

14 Rule is made partly absolute in the above terms.

**(RAVINDRA V. GHUGE , J)**