

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 15052 OF 2017

Proposed Rajeshri Shahu Maharaj
Magasvergiya Sahakari Gruha Nirman
Sanstha Maryadit, Gangakhed
Tq. Gangakhed, Dist. Parbhani
Through Its Chief Promoter
Shri Gautam S/o Amrutrao Rohinkar
Age: 48 years, occu: labour
R/o Old Mondha, Gangakhed
Tq. Gangakhed, Dist. Parbhani

Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Revenue Department,
Mantralaya, Mumbai - 32.
2. The Divisional Commissioner,
Aurangabad division, Aurangabad
3. The Collector, Parbhani
Dist. Parbhani
4. The Tahsildar, Gangakhed
Tq. Gangakhed, Dist. Parbhani

Respondents.

Shri S.K. Chavan, Advocate for the Petitioner.
Shri S.B. Pulkundwar, Assistant Govt. Pleader for Respondents

CORAM : S. V. GANGAPURWALA AND
V.L. ACHLIYA, JJ .

DATE : 21st DECEMBER, 2017.

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

1. Rule.

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

3. Mr. Chavan, the learned counsel for the petitioner submits that, the petitioner's society is consisting of members of the backward class i.e. scheduled caste. The aim and object of the society is to purchase the land and build the houses meant for backward class members. According to the learned counsel, the petitioner had applied for allotment of land for the purpose of construction of houses, however, the said application has been rejected solely on the basis of the Government Resolution dated 12th July, 2011. The learned counsel submits that, the said Government Resolution is issued only on the count that, the Apex Court in a case of **Jagpalsingh and others Vs. State of Punjab** reported in **2011 AIR S.C. 1123** had issued certain directions. The learned counsel states that, the said directions would not come in the way of the petitioner. The learned counsel relies on the judgment of the Division Bench of this court in Writ Petition No. 117 of 2012 dated 03rd August, 2012.

4. Mr. Pulkundwar, the learned Assistant Government Pleader states that, the said Government Resolution has been issued in consonance with the directions issued by the Apex Court in a

case of **Jagpalsingh and others Vs. State of Punjab** referred to supra. No error has been committed while passing the impugned order.

5. We have considered the submissions canvassed by the learned counsel for the respective parties and the judgment delivered by this court in Writ Petition No. 117 of 2012 referred to supra.

6. This court in the afore-referred judgment has interpreted the judgment of the Apex Court in a case of **Jagpalsingh and others Vs. State of Punjab.** It has put a gloss over the said judgment and as stated in the said judgment that the judgment of Apex Court cannot be read to mean that the State Government has been prohibited from granting land in accordance with provisions of the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971 to eligible applicants.

7. In light of the above, the impugned order **(Exhibit 'D' Page 26)** is quashed and set aside. The Respondent / Authority shall consider the application of the petitioner in accordance with provisions of the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971 and take decision upon the

same on its own merits, in accordance with law, expeditiously and preferably within six (6) months.

8. The Writ Petition is accordingly partly allowed. No costs.

[V.L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]

vbd