

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.8390 OF 2014

01 Sampat Tabaji Rokade,
age: 65 years, Occ: Agri.,

02 Manjaba Tabaji Rokade,
age: 60 years, Occ: Agri.,

Both R/o Khadakwadi,
Tq.Parner, Dist.Ahmednagar.

Petitioners

Versus

01 Bhaskar Bhau Rokade,
age: 32 years, Occ: Agri.,

02 Balasaheb Bhau Rokade,
age: 30 years, Occ: Agri.,

03 Navnath Bhau Rokade,
age: 29 years, Occ: Agri.,

04 Rajendra Bhau Rokade,
age: 27 years, Occ: Agri.,

05 Shrirang Bhau Rokade,
age: 25 years, Occ: Agri.,

All R/o Khadakwadi,
Tq.Parner, Dist.Ahmednagar.

06 The Tahsildar, Parner,
Tq.Parner, Dist.Ahmednagar.

07 Sub Divisional Officer,
Ahmednagar, Dist.Ahmednagar.

08 Additional Collector,
Ahmednagar, Dist.Ahmednagar.

09 Additional Commissioner,
Division Nashik, Respondents
Tq. & District Nashik.

10 Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32. Respondents

Mr.N.V.Gaware, advocate for petitioners
Mr.H.U.Dhage, advocate for Respondents No.1 to 5.
Ms.R.P.Gour, A.G.P. for Respondents No.6 to 10.

CORAM : S.B.SHUKRE, J.
DATE : 30th January, 2017

ORAL JUDGMENT :

1 Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 Learned Counsel for Respondents No.1 to 5 has strongly opposed the petition contending that sufficient opportunity of hearing has been granted by the Hon'ble Minister to the petitioners. According to learned A.G.P., proper opportunity of hearing was given to the petitioners. It is also the contention of learned Counsel for Respondents No.1 to 5 that notices were duly received by the petitioners on 11.02.2014 as per report submitted by the concerned Talathi.

3 However, a close perusal of the report of Talathi, which is forming part of paper book at page no.63, would show that the

date “11.02.2014” has been mentioned therein as the date on which notices to be served on the parties, were received by the Talathi and reference is not made with regard to the date of receipt of notices by the petitioners. This report, therefore, would not put forward, in any manner, case of Respondents No.1 to 5.

4 Further, as rightly submitted by learned Counsel for the petitioners, giving of adequate opportunity of hearing before the impugned order was passed by the Hon'ble Minister, is not borne out from record. In fact, documents filed along with affidavit-in-reply of Respondents No.1 to 5 themselves demonstrate this fact. The documents at pages no.60 and 61 of the petition could be cited as instance of denial of proper opportunity of hearing to the petitioners. It is an admitted fact that the matter was closed for orders on 18.02.2014 and these documents show that even thereafter the process server has made an attempt of service of notice upon the petitioners. Thus, I find no force in the contention of learned Counsel for Respondents No.1 to 5 as well as learned A.G.P. appearing for Respondents No.6 to 10. The impugned order has been passed in violation of principles of natural justice and, therefore, it cannot stand scrutiny of law.

5 In the result, writ petition is allowed. The impugned order is quashed and set aside and the case is remanded to the Hon'ble Minister, who shall decide the matter afresh after giving proper opportunity of hearing to the contesting parties i.e. petitioners and Respondents No.1 to 5. The petitioners and Respondents No.1 to 5 shall appear before the Hon'ble Minister on any Monday i.e. 13.02.2017 and thereafter on such dates, as may

be required for hearing of the appeal/revision. The Hon'ble Minister may dispose of the matter in accordance with law, as expeditiously as possible, preferably within three months from the date of appearance of the parties.

6 Rule is made absolute accordingly. No costs.

S.B.SHUKRE
JUDGE

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