

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

WRIT PETITION NO. 11825 OF 2015

1. Pramod Ramesh Kharat
Age: Adult, Occu.: Agriculturist,
2. Rajesh Ramesh Kharat
Age: Adult, Occu.: Agriculturist,
3. Manisha Satyanand Kasab
Age: Adult, Occu.: Agriculturist,
4. Nishidini Piter Dongerdive
Age: Adult, Occu.: Agriculturist,
5. Sunita Ramesh Kharat
Age: Adult, Occu.: Agriculturist,

All above Indian Inhabitants
Represented through their
Constituted Attorney
Sandip Sopan Navle
Age: 35 years, Occu.: Agriculturist,
Residing at Bhenda, Tal: Nevasa,
Dist. Ahmednagar.

..PETITIONERS

VERSUS

1. State of Maharashtra
Through its Revenue Department
having its Office at Mantralaya,
Bombay – 400 032.
2. The Divisional Commissioner, Nashik,
Having his office at Nashik Road – 422 101.
3. The Collector of Ahmednagar
Having his office at Ahmednagar.

4. Tehsildar of Nevasa, Ahmednagar
Having his office at Ahmednagar.

..RESPONDENTS

....
Mr. V.J. Dixit, Senior Advocate h/f Mr. K.C. Sant, Advocate for petitioners.
Mr. S.R. Yadav – Lonikar, A.G.P. for respondent - State.

....

CORAM : S.B. SHUKRE, J.
DATED : 09th MARCH, 2017

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by consent of both parties.

2. Mr. Dixit, learned Senior Counsel for petitioners has placed on record Government Resolution dated 02nd December, 2016. Same is taken on record accordingly and marked as 'X' for identification. He submits that after Appeal No. 1211 of 2015 was dismissed by the Hon'ble Minister on 14th August, 2015, the Government has spelt out the new policy for dealing with the lands which have been properly allotted to the allottees and shown as forest lands. He submits that the petitioners should be given an opportunity for pleading their case for favourable decision in terms of Government Resolution dated 02nd December, 2016.

3. Learned A.G.P. submits that unless and until the forest land is dereserved, which can be done with the approval of the Central

Government, no decision can be taken by the State Government in this regard.

4. The Government Resolution dated 02nd December, 2016 indeed shows that there has been change in the policy of the Government and now the Government has thought of dealing with forest lands with a different approach, that is to say, by distinguishing between those forest lands on which encroachment has been made and those forest lands which have been properly allotted by revenue authorities in the past. This policy further shows that in case of those lands which have been properly allotted, the authority mentioned in the Government Resolution is required to prepare a list of such lands and submit the same to the Government for taking proper decision.

5. In the instant case, it is not in dispute that the petitioners are allottees of the lands shown as forest lands in the revenue record under the order passed by Tahsildar on 13th October, 1976. It is also not in dispute that the petitioners are not the encroachers upon the land bearing Gut No. 68/2, rather they are the proper allottees of these lands. If during pendency of any proceeding, there is any change in Government policy, reasonable expectation of law would be that the the land holders, who are the proper allottees, would also be entitled to get benefit of change in policy.

6. In this view of the matter, it is necessary that the orders dated 14th August, 2015 passed by the Hon'ble Minister and 08th August, 2014 passed by the Commissioner are required to be quashed and set aside.

7. In the result, the petition is allowed. Impugned orders are hereby quashed and set aside. The matter is remanded back to the Collector for considering it afresh in accordance with Government Resolution dated 02nd December, 2016. The Collector shall consider whether the lands of the petitioners could be dealt with in terms of paragraph no.3 of the Government Resolution dated 02nd December, 2016 and if so, he shall include the lands in the list to be forwarded to the Government for appropriate decision, with necessary recommendations. If there is any other Government Resolution applicable to the case of petitioners, same shall also be considered for the purpose of deciding the prayer of petitioners. Liberty to submit fresh representation is granted. All questions are kept open. Rule is made absolute in those terms. No costs.

(S.B. SHUKRE, J.)

SSD