

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8988 OF 2013

Shri Dadabhau Pandurang Agarkar	... Petitioner
V/s	
State of Maharashtra and others	... Respondents

WITH
WRIT PETITION NO.97 OF 2014

Shri. Sopan Namdeo Zodge	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

WITH
WRIT PETITION NO.7005 OF 2013

Shri. Karbhari Dhondiba Zodge	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

WITH
WRIT PETITION NO.7006 OF 2013

Shri Karbhari Nan Vidhate	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

WITH
WRIT PETITION NO.7007 OF 2013

Shri. Yashwant Babu Waghole	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.7008 OF 2013**

Shri Kirtikumar Vitthal Dahale	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.7009 OF 2013**

Shri. Malhari Bayaji Waghole	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.7010 OF 2013**

Shri Laxman Govind Kolhe	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.7011 OF 2013**

Shri. Devram Kundlik Agarkar	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.7012 OF 2013**

Smt. Kamal Eknath Domale	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.8532 OF 2013**

Smt. Subhadrabai Babu Zodage	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.8610 OF 2013**

Shri. Eknath Dagdu Zodge	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.8611 OF 2013**

Shri. Sitaram Babu Waghole	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.8676 OF 2013 WITH
CIVIL APPLICATION NO.38 OF 2014 IN
WRIT PETITION NO.8676 OF 2013**

Shri. Satish Kisan Zodge	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.8973 OF 2013**

Shri. Hari Tukaram Zodge	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.8974 OF 2013**

Smt. Sushila Laxman Desai	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.8975 OF 2013**

Shri. Vittal Vishram Lokhande	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.8976 OF 2013**

Shri. Balwant Babu Waghole	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.8977 OF 2013**

Shri. Suryakant Laxman Zodge	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.8989 OF 2013**

Shri. Ashok Balwant Choudhary	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.8995 OF 2013**

Shri. Tanaji Janardhan Thite	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.8996 OF 2013**

Shri. Balasaheb Ambu Jadhav	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.8997 OF 2013**

Shri. Karbhari Bala Zodage	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.8998 OF 2013**

Shri. Kundalik Narayan Zodge	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.9009 OF 2013**

Shri. Popat Narayan Lokhande	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.9394 OF 2013**

Shri. Khandu Nama Sable	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.9568 OF 2013**

Shri Jaysing Yashwant Chowdhary	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.9573 OF 2013**

Shri. Suresh Bajirao Jadhav	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.9575 OF 2013**

Shri. Jaganath Vithoba Zodge	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.9576 OF 2013**

Shri. Changdeo Sopan Zodge	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.9718 OF 2013**

Shri. Sitaram Vithoba Waghole	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.9738 OF 2013**

Shri. Dharma Bhika Zodge	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.10009 OF 2013**

Smt. Radhabai Kundalik Shinalkar	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.10010 OF 2013 WITH
CIVIL APPLICATION NO.3097 OF 2013 IN
WRIT PETITION NO.10010 OF 2013**

Shri. Prakash Tukaram Zodge	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.10011 OF 2013**

Smt. Radhabai Baban Tathe	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.10012 OF 2013**

Shri. Shantaram Dattu Jadhav	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.10013 OF 2013**

Shri. Sakharam Dagdu Sable	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.10014 OF 2013**

Shri. Subhan Maruti Pansare	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.10015 OF 2013**

Shri. Maruti Vithoba Sable	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.10016 OF 2013**

Shri. Bhika Sadu Waghole	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.10017 OF 2013 WITH
CIVIL APPLICATION NO.3052 OF 2013 IN
WRIT PETITION NO.10017 OF 2013**

Shri. Ramchandra Sahadu Chowdhary	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.10018 OF 2013**

Shri. Bhiva Tukaram Thite	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.10020 OF 2013**

Shri. Sopan Vithoba Waghole	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.10021 OF 2013**

Shri. Natha Namdeo Waghole	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.10022 OF 2013**

Shri. Udhav Daji Waghole	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.10023 OF 2013**

Shri. Prabhakar Ambu Zodge	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

**WITH
WRIT PETITION NO.11064 OF 2013 WITH
WRIT PETITION NO.11892 OF 2013**

Shri. Vithal Ambu Zodge	... Petitioner
V/s.	
State of Maharashtra and others	... Respondents

Ms. Shakuntala Wadekar for the petitioner.
Mr. N.P. Deshpande, AGP for the respondents.

**CORAM: DR. MANJULA CHELLUR, CJ. &
G.S. KULKARNI, J.**

DATE : 7th FEBRUARY 2017

P.C.:

Heard learned counsel for the petitioners and learned Government Advocate.

2. The relief in all the writ petitions is one and the same. The petitioners are claiming to be project affected persons since they received notice under section 12(2) of the Maharashtra Project Affected Persons Rehabilitation Act of 1989 or the 1999 Act (for short “the Act”) intimating the intention of acquiring their land.

According to the petitioners, by virtue of sub-section (2)(a) of section 16 of the Act, they were not made aware of the fact that if they intend to seek benefit of allotment of alternate land, they need to deposit 65% of the amount towards the occupancy price.

3. Now some of the writ petitioners are before us who have not deposited the occupancy price and there are also some petitioners who have deposited occupancy price. Some petitioners claim that though they offered the money, the same was not received. The fact remains that all these persons are claiming to be projected affected farmers of Thitewadi Dam. According to the petitioners, in spite of several requests made by them, nothing was done from the respondents' side. Therefore, the petitioners are before this Court seeking the following reliefs:

- a. *Rule be issued.*
- b. *This Hon'ble Court by way of appropriate writ, order or directions hold and declare Petitioner is entitled for an alternate land admeasuring 2 hectare 80 R occupancy status of Khalsa (Class-I) from the Benefitted zone of Thitewadi Dam Project.*
- bb. *To direct the Respondents to resettle the Petitioner by allotting land to the Petitioner as per his choice, in the fixed area in the land pool of the Thitewadi Dam project situated at District Pune, and permit him to pay occupancy price of the land allotted to him.*

- bbb. *The ratio laid down in the matter of Writ Petition No. 8385 of 2010, Writ Petition No. 1668 of 2012 and Public Interest Litigation No. 221 of 2009 of 2009 be made applicable to the Petitioner case and reliefs claimed in the said matter be granted to the Petitioner.*
- bbbb. *The Respondents be directed to issue notices under section 16(2)(a) of Maharashtra Project Affected Persons Rehabilitation Act 32 of 1989 or amended Act of 1999.*
- bbbbb. *The Respondents be directed to allot any land to the Petitioner in any area from the benefited zone of the Thitewadi Dam project situated at District Pune from the land pool within a time bound schedule.*
- c. *This Hon'ble Court be pleased to call for record and proceeding from the Office of Respondent No.2 directing the Respondent No.3 to consider the representation of the Petitioner in the matter of allotting alternate land to the Petitioner in the Benefited zone of Thitewadi Dam.*
- cc. *Pending the final disposal of the present petition, the Petitioner be permitted to deposit with the respondents the occupancy price for allotment of alternate land.*
- dd. *The Respondents be directed to pay damages to the Petitioner at such just and proper rate as this Hon'ble Court deems fit and proper in the circumstances of the case, in view of the fact*

that the Petitioner was not able to cultivate land for so many years and that the Respondents have failed in their statutory duty to rehabilitate the Petitioner for so many years.

4. According to learned counsel for the petitioners, some of the petitioners had made applications, but they were rejected on the ground of non-deposit of occupancy price in time. The fact remains that none of them have seen the benefit of PAP scheme though the lands were acquired way back between 1999 and 2000.

5. In the light of option being reserved to the petitioners, either to choose payment of compensation or alternate land, subject to deposit of occupancy price, if they have already received the compensation, we dispose of the writ petitions in terms of the following order:-

- (a) The petitioners shall submit their individual application in prescribed form, if any, furnishing all the details within 4 weeks from today to the Rehabilitation Officer concerned.
- (b) On receipt of such application, the Rehabilitation Officer concerned shall intimate to the Petitioners to choose the option available to them in terms of sub-section (2)(a) of section 16 of the Maharashtra Project Affected Persons Rehabilitation Act, which is applicable to them.

- (c) On receipt of such intimation, each of the petitioners in their individual capacity shall intimate the option chosen by them within 2 weeks.
- (d) On receipt of the intimation of option from the petitioners, the respondent Authority shall dispose of the applications strictly adhering to the procedure contemplated within 4 weeks thereafter.
- (e) In view of disposal of the writ petitions, the civil applications do not survive and are disposed of.
- (e) Registry is directed to keep copy of this order in each of the writ petitions.

(G.S. KULKARNI, J.)

CHIEF JUSTICE