

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1695 OF 2016**

Kalu Dhondu Khade

..Petitioner

v/s.

The State of Maharashtra & Ors.

..Respondents

Mr. Harshad Palwe for the Petitioner

Mr. Manish Pabale AGP for the Respondent Nos.1 to 4.

**CORAM : A.S.OKA & ANUJA PRABHUDESSAI, JJ.
DATED : 11TH JANUARY, 2017**

ORAL JUDGMENT (PER A.S.OKA, J.).

1. Rule. The learned AGP waives service for the respondents. An application was made by the petitioner, who is a tribal seeking a sanction for the transfer of the land held by him in accordance with the sub-Section (1) of Section 36A of the Maharashtra Land Revenue Code, 1966 (for short “the said Code”). Sanction was sought for the sale of the said land. In view of clause (b) of sub Section 1 of Section 36A of the said Code, the Collector is empowered to grant sanction

only with the prior approval of the State Government.

2. The learned Counsel appearing for the petitioner submitted that the application for seeking sanction was made way back on 3rd July, 2012. His contention is that both the Collector and the Divisional Commissioner recommended the case of the petitioner for grant of sanction. Our attention is invited to the communication dated 26th February 2014, a copy of which is annexed at Exhibit F to the petition. It is addressed by the Addl. Collector, Nashik to the Desk Officer of the Revenue and Forest Department of the State Government. By the said communication, the application made by the petitioner was recommended by the Collector for grant of prior approval. The grievance in this petition under Article 226 of the Constitution of India is that the Government has not taken any decision.

3. The learned Counsel appearing for the petitioner relies upon the judgment and order dated 10th October, 2014 passed by this Court in Writ Petition No. 8744 of 2014 (Smt. Chhaya Rajendra Zende & Anr. vs. The State of Maharashtra through Secretary, Revenue & Forest Department & Ors.) and the other connected

matters. It is submitted that the Government is bound by the directions issued thereunder.

4. The learned AGP has no instructions about the status of the pending proposal. Hence, we need not keep the petition pending and the same is disposed of by passing the following order:-

- i) We direct the petitioner to produce an authenticated copy of the judgment and order in the office of the Principal Secretary of the Revenue and Forest Department of the State Government;
- ii) If no decision has been taken on the proposal submitted by the Addl. Collector, Nashik for grant of prior approval in accordance with clause (b) of Sub-Section (1) of Section 36A of the said Code, the same shall be taken by the State Government within a period of three months from the date on which an authenticated copy of this order is produced in the office of the Principal Secretary of the Revenue Department. The decision shall be immediately communicated to the District Collector, Nashik;
- iii) If the decision is already taken on the issue by the State Government, the same shall be communicated to the District Collector, Nashik, within the period of two weeks from the date on

which an authenticated copy of this order is produced as above;

iv) After considering the decision of the State Government on the issue of grant of prior approval, the Collector or Additional Collector, Nashik as the case may be, shall pass final order on the application made by the petitioner within a period of one month from the date on which the order of the Government is received by the Collector or the Additional Collector, as the case may be;

iv) The order passed by the Collector/ Additional Collector shall be communicated to the petitioner.

v). Rule is disposed of in above terms.

vi). All concerned to act on an authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)