

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

941. WRIT PETITION NO. 8339 OF 2018

Ramdas S/o Kundlik Kale

...Petitioner

VERSUS

The State of Maharashtra and another

...Respondents

Mr. S.S. Dixit, Advocate for petitioner

Mr. P.S. Patil, Addl. Govt. Pleader for respondents

CORAM : S.V. GANGAPURWALA

AND

AVINASH G. GHAROTE, JJ.

DATE : 27th November, 2019

PER COURT :

1. Mr. Dixit, learned Counsel for the petitioner, submits that the petitioner has constructed the common farm pond as per the scheme introduced by the respondent from 1st September 2012. The guidelines are given. The learned Counsel submits that the common farm pond was constructed for storage of water for horticulture purpose. The beneficiary ID card is issued to the petitioner in the year 2013. During the continuance of the construction of common farm pond/dam for horticulture and other agricultural purposes, Officers of the respondents were visiting the site from time to time and were also inspecting the construction. The construction is made

as per the specifications and requirements under the guidelines. The common farm pond/dam is constructed during the period from 01.07.2013 to 16.7.2013. According to the learned Counsel, an agreement is also entered into between the petitioner and the Authorities of the respondents on 08.01.2014. The photographs are filed on record showing that the authorities have inspected the same during continuance of the construction work. The payment to the petitioner for the said work under the scheme is also sanctioned by the authorities concerned, which consisted of Taluka Agricultural Officer, Circle Agricultural Officer and Agricultural Supervisor. An amount of Rs. 1,73,048/- is also sanctioned but the same is not paid to the petitioner.

2. The learned Asstt. Govt. Pleader submits that as per the scheme for the construction of the common farm pond, a person is first required to obtain a sanction by filing an application in Annexure 1 and if the work order is issued in favour of the petitioner then only he could start the work. The petitioner constructed the common farm dam without prior sanction and work order in his favour and he is not entitled for the funds and the same is against the scheme. The agreement and all other aspects are subsequent to the work carried out by the petitioner. The learned Asstt. Govt. Pleader submits that the common farm dam is sanctioned only for

such an area of land wherein horticulture, vegetables, flowers and medicinal plants relating to the horticulture are cultivated. There are other conditions also apart from the sanction and the work order, which the claimant is required to comply. Considering all the aspects, claim of the petitioner has been rightly rejected.

3. The guidelines are laid down for the construction of the common farm pond under the scheme. The scheme requires pre-sanction. The scheme requires an application to be made by the person as per Annexure 1, pre-sanction and issuance of work order prior to commencing the work of the common farm pond. In the present case, we do not find any sanction order or work order in favour of the petitioner. Subsequently, an agreement has been entered into between the petitioner and the officers of the respondents on 08.01.2014 after completion of the work. The said agreement on behalf of the respondents is signed by the Agricultural Assistant, Agricultural Supervisor and the Circle Agricultural Officer, as is placed on record. The inspection reports are also submitted by the said authorities. One such report is filed at page 54 and under the said certificate of the work done, it was recommended that the first installment of 46,464/- be released. One document is placed on record, which is again signed by the Taluka Agricultural Officer and the Sub-Divisional Agricultural Officer detailing that in December

2013 they had visited the site. Administrative sanction is for Rs. 1,75,000/- and other details are also given regarding the depth of the pond, so also, its water storage capacity.

4. Documents are placed on record showing length, breadth and depth of the construction of the common farm pond and storage of the water.

5. In fact, if the petitioner did not have pre-sanction and work order, it is none of the business of the authorities to inspect the site and submit the reports from time to time. The officers of the respondents were from time to time inspecting the common farm pond and had submitted the reports certifying the work done and the entitlement of the petitioner for the amount. It was, these officers, who were supervising implementation of the scheme of giving subsidy/grants for the construction of the common farm pond. They have already recommended the payment to the petitioner. However, it appears that on account of lack of pre-sanction and the work order, the amount is negated to the petitioner.

6. Respondent is the best judge for implementation of the scheme. It appears from the documents on record that the petitioner has constructed the common farm dam in view of the

certification by the officers of the respondents.

7. There is nothing on record to suggest that today also the fund for payment under the said scheme is available with the respondents and that the said scheme is still in force.

8. From the record, it appears that the construction has been made of the common farm pond. We also do not find much material on record to conclude that other conditions laid down under the scheme are also complied with or are satisfied, it is for the authorities to consider the same.

9. In the light of above, it is for the authorities to consider the documents on record, whether the scheme is still in force, availability of funds and then take decision after satisfying that the terms and conditions under the said scheme are complied with, afresh with regard to the payment to the petitioner.

10. The writ petition is disposed of accordingly. No costs.

(AVINASH G. GHAROTE)
JUDGE

Madkar

(S.V. GANGAPURWALA)
JUDGE