

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

42 WRIT PETITION NO.11906 OF 2018

**KARIM HASAN PATHAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioner : Mr. Ghatol Patil Shahaji B.
AGP for Respondents State: Mr. S. G. Karlekar

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 29th January, 2019

PER COURT :

1. Mr. Ghatol, learned counsel for the petitioner submits that the land of the petitioner has been acquired for public purpose i.e. for Jaikwadi Project. Learned counsel submits that the petitioner has filed an application for allotment of alternate land as the petitioner became landless. Same is not considered.

2. Learned AGP submits that as the application is not made within the prescribed period, so also, amount of 75% of compensation is not deposited, as required under sub-section 2(b) of Section 16 of the Maharashtra Project Affected Persons Rehabilitation Act, 1999. The petitioner cannot claim any right of alternate land. The application is not filed under Section 16(1) of the said Act, as such, further provisions would not apply.

3. Mr. Ghatol, relies on the judgment of the Division Bench of this Court in W.P. No. 269 of 2012 with other connected matters dated 17.7.2012 delivered at the Principal Seat at Bombay, so also, the judgment of the Division Bench of this Court in Ramshankar Deshmukh vs. State of Maharashtra in W.P. 8385 of 2010 dated 2.5.2011.

4. We have considered the submissions. The Division Bench of this Court in the case of Ramshankar Deshmukh (referred to supra) has observed as under :-

“The statutory provisions are very clear and therefore limitation stipulated in subsection (2) of section 16 of the Act will begin to run only after the Collector serves a notice upon the land losers as provided in section 16(2)(a). The learned AGP sought to contend that 65% amount is required to be deposited at the time when the land loser received compensation as provided under clause (b) of section 16(2). It is not possible to accept the above contention for the simple reason that the land loser will come to know about the entitlement to get alternate land only when he receives the notice in that behalf from the Collector as specifically provided under clause (a) of subsection (2). Hence, it has to be held that for a land loser to forfeit his right to get alternate land under the provisions of the above Act, mere non deposit of 65% of the compensation at the time of receiving the compensation is not sufficient unless the land loser was given the notice under section 16(2)(a) by the Collector in the first

place. In view of the above discussion, the petitions are allowed.”

5. Thus, it would be clear that the time as against the petitioner would begin to run from the date of receipt of notice under Section 16(2)(a) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999, from the Collector. Moreover, no orders are passed by the Collector on the applications filed by the petitioner.

6. In the light of above, we pass the following order :

- (a) The Collector, Aurangabad, shall give notice to the petitioner under Section 16(2)(a) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999, for grant of allotment of land, upon verifying the factual aspects about the entitlement of the petitioner to alternate land.
- (b) If the Collector finds that the petitioner is entitled for allotment of alternate land, then, the Collector shall issue notice by R.P.A.D. to the petitioner, within a period of 6 months.
- (c) Impugned letters are quashed and set aside.
- (d) Writ petition is accordingly disposed of. No costs.

(A. M. DHAVAL, J.)

(S. V. GANGAPURWALA, J.)

JPC