

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

WRIT PETITION NO.570 OF 2019

**SHAIKH AHSANUDDIN ALIAS BABU ZAMIRUDDIN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.Shaikh Mujtaba Gulam Mustafa, Advocate for the petitioners.

Mr.S.S. Dande, AGP for respondent/State.

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 23.01.2019

P.C. :-

1. Heard learned Counsel Mr.Shaikh Mujtaba Gulam Mustafa appearing for the petitioners. It was submission of learned Counsel appearing for the petitioners that the petitioners are legal heirs of the person in whose favour rights flowing from succession were granted. Reference is also made to the proceedings before the quasi-judicial authority under the Hyderabad Atiyat Inquiries Act. Learned Counsel submitted that the competent authority decided the proceedings under order dated 16.10.2018 and the petitioner is faced with a notice dated 16.10.2018,

whereby the petitioner is informed that earlier order dated 16.10.2018 is passed erroneously. It is also informed to the petitioner that the matter is referred to the superior authority for initiating proceedings in the nature of revision. It was submission of learned Counsel appearing for the petitioner that the course adopted by the authorities and more particularly respondent No.3 – Additional Commissioner, Beed is unsustainable. It is also submitted by learned Counsel that there is voluminous record with the petitioners to establish their right and claim and in the earlier rounds the authorities have passed orders. As such the decision of respondent No.3 – Additional Collector is clearly unsustainable and respondent No.3 be directed to drop the proceedings.

2. From the perusal of the material placed on record and more particularly perusal of the order impugned in the petition, what emerges is that it was an intimation to the petitioners that while passing order dated 16.10.2018 an error is committed. It also refers

to the fact that during the pendency of the proceedings, ancillary proceedings by way of File No. 2018/SA/SUBHU/INAM/KAVI-55 was closed and restoration of that proceeding was necessary for better appreciation of decision in the proceedings. Then, there is also reference to the Government notifications.

3. On the backdrop of these facts, the Dy. Collector called upon the petitioner, who is referred to as respondent No.2 in the communication dated 16.10.2018. It is specifically stated in the communication that the final decision would be taken after hearing of the parties and till then the earlier decision is stayed. Now this communication clearly gives an opportunity of hearing to the parties and the parties including the petitioner are not prevented to submit their say before the authorities including the submission that the course adopted by the authorities is not sustainable. On this ground itself, we are not inclined to entertain the petition. It clearly seems that the petition is preferred

only with assumptions and presumptions of the petitioner. The assumptions and presumptions of the petitioners are not sound enough to permit us to entertain the petition. On such unfounded presumption, we are not inclined to entertain the petition. The petitioners, who have been given opportunity of hearing, may immediately approach the authority and submit their say. Accordingly, the petition is dismissed at the threshold.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]