

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2796 OF 2019

...
Gabaji Bhagu ChorghePetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.2221 OF 2019

...
Ananda Laxman DanglaePetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.2793 OF 2019

Laxman Bhagu RajguravPetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.2794 OF 2019

Sahadu Shankar DeshmukhPetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.6267 OF 2019

Shivram Raghu SablePetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.6271 OF 2019

Nathuram Dattu Kalwade & Ors.Petitioners
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.6272 OF 2019

Yuvraj Shankar RoundhalPetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.6283 OF 2019

Gopala Bhagu BhalsingPetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.6287 OF 2019

Bhamabai Dattu Shivekar & Ors.Petitioners
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.6289 OF 2019

Vishnu Appa GhudePetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.6291 OF 2019

Laxman Bhagu Kudale & Anr.Petitioners
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.6295 OF 2019

Baban Arjun GhudePetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.6296 OF 2019

Namdeo Sakharam Pombhale & Ors.Petitioners
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.6297 OF 2019

Dattu Bhagu RajguravPetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.6303 OF 2019

Mahendra Raghunath Bandal & ors.Petitioners
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.6952 OF 2019

Raghunath Maruti PapalPetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.10484 OF 2018

Shankar Maruti RoundhalPetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION NO.13336 OF 2018

Tukaram Rama DangalePetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.21007 OF 2018

Baban Dhondu PangarePetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.21126 OF 2018

Ganpat Savaleram Satpute & Anr.Petitioners
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.21128 OF 2018

Mahadu Jangal KoltePetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.21130 OF 2018

Kaluram Baburao Chorghe & ors.Petitioners
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.21806 OF 2018

Shivaji Shantaram Dangale & Ors.Petitioners
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.21936 OF 2018

Indubai Dhondiba ShivekarPetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.22266 OF 2018

Maruti Nana Chorghe & Ors.Petitioners
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.26149 OF 2018

Gorakh Raghu Chorghe & ors.Petitioners
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.26157 OF 2018

Kisan Uma Sable & Ors.Petitioners
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.28870 OF 2018

Dinesh Dattatray BandalPetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.28871 OF 2018

Gangubai Bhairu Roundhal & Ors.Petitioners
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.28878 OF 2018

Bhagubai Magan Roundhal & Ors.Petitioners
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.28933 OF 2018

Mahadu Savleram KudekarPetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.29014 OF 2018

Pandharinath Bhagu Sable & Ors.Petitioners
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.29192 OF 2018

Kashiba Shripati ThakurPetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.29193 OF 2018

Sunil Dnyanu Bendure & Ors.Petitioners
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.33097 OF 2018

Hiraman Dhaku DangalePetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.33103 OF 2018

Shiva Sahadu KalwadePetitioner
V/S
State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.33109 OF 2018

Dhyaneswar Prabhakar Roundhal & Ors.Petitioners
V/S
State of Maharashtra & Ors.Respondents

Mr. Gaurav Potnis i/b. Ms. Pallavi Potnis for the Petitioners in all WPs.
Mr R. S. Pawar, AGP for Respondents-State in WP No.28878 of 2018.
Mr. P.N. Diwan, AGP for Respondents-State in WP No.29193 of 2018.
Mr. V. D. Patil, AGP for Respondents-State in WP No.33097 of 2018.
Mr. V. S. Gokhale, AGP for Respondents-State in WP No.33103 of 2018.
Ms. S.S. Bhende, AGP for Respondents-State in WP No.33109 of 2018.
Mr. G.V. Shinde, AGP for Respondents-State in other connected Writ Petitions.

**CORAM : A.A. SAYED &
PRAKASH D. NAIK, JJ.**
DATE : 31 JULY 2019.

ORDER:

1 The subject matter of the Petitions relates to project affected persons of Bhama-Askhed Project.

2. Learned Counsel for the Petitioners states that the case of the Petitioners would be covered by the order dated 27th October 2016 in Review Petition (Stamp) No.34787 of 2015 **(The Collector of Pune & Ors. Vs. Sakharam Tukaram Shivekar & Anr.)** and the order dated 27 August 2018 in Writ Petition No.3087 of 2016 **(Govind Mahadu Jadhav (decd) Through Lrs. V/s. State of Maharashtra & Ors.)**.

3. Learned AGPs do not dispute this position.
4. In the circumstances, we pass the following order:

ORDER

(i) The impugned communication dated 9 April 2018 of the Deputy Collector (Rehabilitation), Pune shall stand set aside.

(ii) We direct the Deputy Collector (Resettlement), Pune to examine the cases of the Petitioners with a view to ascertain whether they are project affected persons as claimed by them and whether they are entitled to allotment of lands under the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 or under similar enactments;

(iii) We direct the Petitioners to appear before the Deputy Collector (Resettlement), Pune on 14 October 2019 at 12.30 p.m. The Petitioners shall produce necessary documents in their custody along with Representations. If the Petitioners are not in possession of all the documents, the Deputy Collector (Resettlement), Pune shall grant time of three months to them to produce the relevant documents from the date fixed for appearance;

(iv) In the event, the Petitioners produce evidence to show that their Applications for grant of heirship certificate/succession certificate/probate/letters of Administration are pending, on being satisfied that such Applications are pending, the Deputy Collector (Resettlement), Pune shall extend the time of three months provided in this order and shall grant a reasonable time to enable the Petitioners to obtain necessary grant from the concerned Court;

(v) We direct the Deputy Collector (Resettlement), Pune to consider documents and to pass an order recording brief reasons. The order shall be passed within a period of three months from the date on which time granted to the Petitioners to produce documents expires. A copy of the order passed by the Deputy Collector (Resettlement) Pune shall be served upon the Petitioners.

(vi) If the Deputy Collector (Resettlement), Pune is satisfied that the Petitioners are the project affected persons or legal representatives of the project affected persons and/or otherwise are entitled to allotment of a land, the State shall ensure that the Collector or appropriate authority of the State immediately issues a notices to the Petitioners under clause (a) of sub-section (2) of

section 16 of the Maharashtra Project Affected Persons Rehabilitation Act, 1999. Notices shall be issued either by RPAD and/or by hand delivery;

(vii) It will be open for the Petitioners to communicate their willingness to accept the grant of a land within a period of 45 days from the date of receipt of such notices from the Collector/ Competent Authority;

(viii) The Petitioners shall deposit with the Collector (Resettlement), Pune, 65% amount of the compensation received by them or their predecessors for the land acquired from them or the likely cost of the land granted to them, whichever is less at the time of payment of such compensation to the Petitioners.

(ix) Needless to add that adjudication will be made by the Deputy Collector (Resettlement), Pune in the light of the discussion made in this order. We clarify that the Petitioners will not be required to produce evidence to show that Applications under sub-section (1) of section 16 of the said Act have been made either by them or by their predecessors. We also clarify that even assuming that the Petitioners or their predecessors in title have made statements

before the Land Acquisition Officer stating that they are not interested in allotment of alternate land, such statements shall not amount to waiver of their right of allotment of land by way of Rehabilitation;

5 The learned AGPs pointed out that there is now a policy in place whereby compensation is being offered to project affected persons. We clarify that it will always be open for the Petitioners to opt for compensation under that policy, if they so desire and this order will not preclude the Petitioners from opting for compensation. Needless to say in that event the benefit of this order would not be available.

6. The Writ Petitions to stand disposed of in the above terms.

(PRAKASH D. NAIK, J.)

(A.A. SAYED, J.)

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